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ABSTRACT

Texts of major education and training laws amended by the first session of the 90th Congress are included in this appendix to ED 029 096: (1) Elementary and Secondary Education Act, (2) Public Law 874, (3) Public Law 815, (4) Adult Education Act, (5) Cooperative Research Act, (6) Higher Education Act, (7) National Defense Education Act, (8) fellowships for urban studies, (9) educational broadcasting, (10) Vocational Rehabilitation Act, (11) loan service of captioned films and educational media for the deaf and handicapped, (12) grants for teaching in the education of handicapped children, (13) training of teachers of mentally retarded and other handicapped children, (14) youth-work-study programs, (15) Veterans Readjustment Benefits Act, and (16) Library Services and Construction Act. (DM)

90th Congress }
2d Session }
COMMITTEE PRINT

# ENACTMENTS BY THE 90TH CONGRESS CONCERNING EDUCATION AND TRAINING

## First Session 1967

(With Related Presidential Recommendations,
Legislative Histories of the Bills, and
Digests of the Enactments)

ED 043729

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OF THE
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COMMITTEE ON LABOR AND
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UNITED STATES SENATE

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Part 2—Appendix
JUNE 1968

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# LETTER OF TRANSMITTAL

MARCH 8, 1968.

HON. WAYNE MORSE,
*Chairman, Subcommittee on Education, Senate Committee on Labor, and Public Welfare, U. S. Senate, Washington, D.C.*

DEAR SENATOR MORSE: In response to your request, I am transmitting a report entitled "Enactments by the 90th Congress Concerning Education and Training, First Session, 1967." Excepting the appendix, the report was prepared by Charles A. Quattlebaum, specialist in education on the staff of the Senior Specialists Division of the Legislative Reference Service. The appendix was prepared by Keith D. Dunnigan on the staff of the American Law Division of the Service.

The purpose and scope of the report are briefly stated in the introduction.

LESTER S. JAYSON,
*Director, Legislative Reference Service.*

# FOREWORD

At my request the Legislative Reference Service of the Library of Congress has performed a public service in preparing for the use of the Subcommittee on Education of the Senate Committee on Labor and Public Welfare the enactments of the first session of the 90th Congress.

The present work is the fourth so prepared for our use. It was preceded by the "Enactments of the Second Session of the 89th Congress," the "Enactments of the First Session of the 89th Congress," and by the "Enactments of the 88th Congress," each of which has been most useful to the committee and, I hope as well to senatorial offices and members of the educational community.

Much has been accomplished in the field of educational legislation in the past 5 years. A foundation has been laid in the 90th Congress upon which we can build. The materials which follow will be most valuable to us as we take up the recommendations which will come forth in this year.

On behalf of my colleagues on the subcommittee I wish to express to the Library of Congress my appreciation for the time and effort expended by Mr. Charles Quattlebaum, specialist in education, Senior Specialist Division, who prepared the legislative histories and summaries of the bills and to the American Law Division of the Legislative Reference Service, which is responsible for the preparation of the Annotated Statutes which conclude the volume.

WAYNE MORSE,
*Chairman, Education Subcommittee.*

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# APPENDIX

# TEXT OF MAJOR EDUCATION AND TRAINING LAWS AS AMENDED BY THE NINETIETH CONGRESS, FIRST SESSION

## 1. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED THROUGH THE NINETIETH CONGRESS, FIRST SESSION

**Enacted on April 11, 1965, as P.L. 89-10 (79 Stat 27) Amended on November 3, 1966, by P.L. 89-750 (79 Stat 1191); and on January 2, 1968 by P.L. 90-247 (81 Stat 783)**

**AN ACT To strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Elementary and Secondary Education Act of 1965".

## *TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

### PART A—BASIC GRANTS

#### DECLARATION OF POLICY

**SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concen-** **20 U.S.C. 241a.**

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***NOTES.—This Title is also cited as Title II of the Act of September 30, 1950, Public Law 874, 81st Congress. By sec. 116, of Public Law 89-750, this Title may be cited as Title I of the Elementary and Secondary Education Act of 1965, and such has been done here for purposes of clarity. By sec. 110 of Public Law 90-247, the section numbers have been changed from 201 et seq. to 101 et seq. to avoid confusion with the sections under Title II of this Act.**

*****Section 111(f) of Public Law 89-750 provides for coordination of the programs of Acts amended by Public Law 89-750 as follows:***

**"In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate such programs on the Federal level with the programs being administered by such other departments and agencies and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964."**

******Section 2 of Public Law 90-247 sets guidelines for the administration of programs of Acts amended by Public Law 90-247 as follows:***

**"Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, cita-**

trations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in this part) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

### DURATION OF ASSISTANCE

20 U.S.C. 241b.

SEC. 102. The Commissioner shall, in accordance with the provisions of this part, make payments to State educational agencies for the period beginning July 1, 1965, and ending June 30, 1970.

81 Stat. 813.

### GRANTS—AMOUNT AND ELIGIBILITY

20 U.S.C. 241e.

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 107(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition he shall allot from such amount to the

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tions to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States."

****_Section 182 of Public Law 89–750 as amended by section 112 of Public Law 90–247 provides for compliance with the Civil Rights Act of 1964 as follows:_

20 U.S.C. 821 nt.
20 U.S.C. 236.
20 U.S.C. 631.
20 U.S.C. 331 nt.
42 U.S.C. 2000d–2000d-4.

"The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964; *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–352), compliance by such agency with a final order or judgment of a Federal court for the desegratetion of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned."

81 Stat. 787.

*****_Section 111 of Public Law 90–247 provides for a study of the impact of children living in public housing as follows:_

"The Secretary of Health, Education, and Welfare shall make a study of the burden imposed on a local educational agency by the presence of low-rent public housing within the boundaries of its school district. The Secretary shall submit a report on the results of his study to the Senate and House of Representatives on or before May 15, 1968. Such report shall include such recommendations for legislation as the Secretary deems appropriate."

******_Section 113 of Public Law 90–247 provides for a study of the data used to establish entitlements as follows:_

"The Commissioner of Education and the Secretary of Commerce, acting together, shall prepare and submit to the Senate and House of Representatives, on or before May 1, 1968, a report setting forth a method of determining the information necessary to establish entitlements within each of the several States under title I of the Elementary and Secondary Education Act of 1965 on the basis of data later than 1960. Such report shall include recommendations for legislation necessary to permit the adoption of such method."

Secretary of the Interior the amount necessary to make payments pursuant to subparagraph (B) of this paragraph, and for the fiscal year ending June 30, 1968, and the fiscal year ending June 30, 1969, the amount necessary to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive and the terms upon which payment shall be made to the Department of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title. 81 Stat. 783.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indians children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States, multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clause (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. 42 U.S.C. 601. 81 Stat. 783.

(3)(A) If the maximum amount of the grant determinated pursuant to paragraph (1) or (2) for any local educational agency for the fiscal year ending June 30, 1967, is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purposes of this part.

(4) For purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(5) In the case of a State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), the maximum grant which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State or, if greater, in the United States (multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by that State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

(6) A State educational agency which has submitted and had approved an application under section 105(c) for any fiscal year shall be entitled to receive a grant for that year under this part for establishing or improving programs for migratory children of migratory agricultural workers. The maximum total of grants which shall be available for use in any State for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State, or if greater, in the United States multiplied by (A) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (B) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations.

(7) In the case of a State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children, the maximum grant

which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State, or if greater, in the United States multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.*

(b) A local educational agency shall be eligible for a grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a):

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $2,000 for the fiscal year ending June 30, 1966, and the fiscal year ending June 30, 1967. Except as otherwise provided in section 108, for the fiscal years ending June 30, 1968, June 30, 1969, and June 30, 1970, they shall be 50 per centum and $3,000, respectively. 81 Stat. 785.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year. When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of such children in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

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*See title VII, section 703(c)(2) for additional eligibility requirements regarding coordination of programs.

42 U.S.C. 601.
81 Stat. 784.
81 Stat. 784.

(e) For purposes of this section, the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.[1]

80 Stat. 1195.

*Sec. 104. By section 108(a) of Public Law 89–750, section 104 has been deleted.*

### APPLICATION

20 U.S.C. 241e.

SEC. 105. (a) A local educational agency, may receive a grant under this part for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

(1) that payments under this part will be used for programs and projects (including the acquisition of equipment, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families and (B) which are of sufficient size, scope, and quality to give rea-

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[1] By section 104(c) of Public Law 90-247, the amendments made to section 103 by section 104 of Public Law 90-247, including the addition of subsection (e) to section 103, shall apply with respect to fiscal years ending on or after June 30, 1969.

sonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided,* That the amount used for plans for any fiscal year shall not exceed 1 per centum of the maximum amount determined for that agency for that year pursuant to section 103 or $2,000, whichever is greater.

(2) that, to the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency has made provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate;

(3) that the local educational agency has provided satisfactory assurance that the control of funds provided under this part, and title to property derived thereform shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

(4) in the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 131 will be complied with on all such construction projects;

(5) in the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this part and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this part, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this part;

(6) that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

(7) that the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information, as

may be reasonably necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of students participating in programs carried out under this part, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) in the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this part shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

(9) that effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(10) in the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project); and

(11) in the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together.

81 Stat. 784.

(b) The State educational agency shall not finally disapprove in whole or in part any application for funds under this part without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

(c)(1) A State educational agency or a combination of such agencies may apply for a grant for any fiscal year under this part to establish or improve, either directly, or through local educational agencies, programs of education for migratory children of migratory agricultural workers. The Commissioner may approve such an application only upon his determination—

(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964; and 42 U.S.C. 2861.

(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (2) through (8) of subsection (a), and section 106 (a).

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this subsection in one or more States, and for this purpose he may set aside on an equitable basis and use all or part of the maximum total of grants available for such State or States.

(3) For purposes of this subsection, with the concurrence of his parents, a migratory child of a migratory agricultural worker shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. 81 Stat. 787.

### ASSURANCES FROM STATES

SEC. 106. (a) Any State desiring to participate under this part (except with respect to the program described in section 105(c) relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance— 20 U.S.C. 241g.

(1) that, except as provided in section 107(b), payments under this part will be used only for programs and projects which have been approved by the State educational agency pursuant to section 105(a) and which meet the application requirements of that section and of section 103(a)(5) and that such agency will in all other respects comply with the provisions of this part, including the enforcement of any obligations imposed upon a local educational agency under section 105(a);

(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this part; and

(3) that the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 105(a)(6)) evaluating the effectiveness of payments under this part

and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this part (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

PAYMENT

20 U.S.C. 241g. SEC. 107. (a)(1) The Commission shall, subject to the provisions of section 108, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this part. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this part (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 105(a) the amount for which such application has been approved, except that this amount shall not exceed the maximum amount determined for that agency pursuant to section 103.

(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part (including technical assistance for the measurements and evaluations required by section 105(a)(6)), except that the total of such payments in any fiscal year shall not exceed—

81 Stat. 783. (1) 1 per centum of the total maximum grants for State and local educational agencies of the State as determined for that year pursuant to sections 103 and 108, or

(2) $150,000, or $25,000 in the case of Puerto Rico, Wake Island, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands,

whichever is the greater.

(c)(1) No payments shall be made under this part for any fiscal year to a State which has taken into consideration payments under this part in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this part to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

### ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

20 U.S.C. 241h.
81 Stat. 785.

SEC. 108. If the sums appropriated for any fiscal year for making the payments provided in this part are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this part for such year—

(1) the amount available for each grant to a State agency eligible for a grant under paragraph (5), (6), or (7) of section 103(a) shall be equal to the maximum grant as computed under such paragraph;

(2) allocations shall be made to local educational agencies on the basis of computations, in accordance with section 103(a)(2) as reduced ratably, except that—

(A) until appropriations are sufficient to satisfy all maximum grants as computed by using a low-income factor of $2,000, the low-income factor (referred to in section 103(c)) for such year shall be $2,000; and

(B) the aggregate amount available for grants to local educational agencies within each State shall be not less than the aggregate amount allocated to local educational agencies within such State for the fiscal year ending June 30, 1967, until the total appropriations for that fiscal year exceed $1,500,000,000 for part A of title I;

(3) the amount available for payments to each State educational agency for the purposes of section 107(b) shall be equal to 1 per centum of the aggregate amounts available within that State pursuant to paragraphs (1) and (2), except that no State shall receive less than the minimum amount provided for in section 107(b)(2).

In case additional funds become available for making payments under this part for that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this part, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 103(a)(6) must file applications. If the maximum grant a local educational agency or an agency referred to in section 103(a)(6) would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this part, in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this part in such manner as the respective State educational agencies shall prescribe.

## Part B—Incentive Grants

### SPECIAL INCENTIVE GRANTS

81 Stat. 786.

Sec. 121. (a) A special incentive grant shall be made for any fiscal year beginning after June 30, 1968, to the State educational agency of each State which has an effort index for the preceding fiscal year that exceeds the national effort index for such year. The amount of such special incentive grant shall be determined by multiplying the amount of $1 for each 0.01 per centum by which such State's effort index for such year exceeds the national effort index for such year times the aggregate number of children counted for purposes of entitling local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 103(a) of this Act. If the sum of the amounts so determined for all the States exceeds the amount appropriated pursuant to this part for any fiscal year, such amounts shall be ratably reduced. No State agency shall receive in any year a grant pursuant to this section which is in excess of 15 per centum of the total amount appropriated for such year for the purpose of this section. The State educational agency shall distribute such grant to those local educational agencies in such State which are in the greatest need of additional funds, for the purposes set forth in section 105(a), and amounts so distributed shall be used by such agencies in accordance with the provisions governing the use of grants to such agencies under this title.

(b) Grants pursuant to this section shall be made upon application containing such information as the Commissioner may require for the purpose of this section. The Commissioner shall not finally disapprove such an application except after reasonable notice and opportunity for a hearing to the State educational agency.

(c) For the purpose of this section the term "State effort index" means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term "national effort index" means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States.

(d) For the purpose of making grants under this part there are authorized to be appropriated not in excess of $50,000,000 each for the fiscal year ending June 30, 1969, and the succeeding fiscal year.

## PART C—GENERAL PROVISIONS

### LABOR STANDARDS

SEC. 131. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 913) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c). 20 U.S.C. 241i.

### WITHHOLDING

SEC. 132. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 105(c), 106(b) or 121(b), the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be. 20 U.S.C. 241j.

### JUDICIAL REVIEW

SEC. 133. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 105(c), 106(b) or 121(b) or with his final action under section 132, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court 20 U.S.C. 241k.

the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### NATIONAL ADVISORY COUNCIL

20 U.S.C. 241*l*.

SEC. 134. (a) The President shall, within ninety days after the enactment of this part, appoint a National Advisory Council on the Education of Disadvantaged Children for the purpose of reviewing the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, and making recommendations for the improvement of this part and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of twelve persons. When requested by the President, the Secretary of Health, Education, and Welfare shall engage such technical assistance as may be required to carry out the functions of the Council, and the Secretary shall make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than January 31 of each calendar year beginning after the enactment of this part. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report.

(d) Members of the Council who are not regular full-time employees of the United States shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703) for persons in Government service employed intermittently.

(e) In its annual report to the President and the Congress to be made not later than January 31, 1969, the Council shall report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. 81 Stat. 788.

### TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 135. (a) Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan. 20 U.S.C. 241m. 42 U.S.C. 602.

(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of the Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

### SHORT TITLE

SEC. 136. This title may be cited as "Title I of the Elementary and Secondary Education Act of 1965". 20 U.S.C. 241a note.

## TITLE II—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

### APPROPRIATIONS AUTHORIZED

SEC. 201. (a) The Commissioner shall carry out a program for making grants for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools. 20 U.S.C. 821. 81 Stat. 813.

(b) For the purpose of making grants under this title, there are hereby authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1966, $125,000,000 for the fiscal year ending June 30, 1967, $150,000,000 for the fiscal

81 Stat. 813.

year ending June 30, 1968 $162,500,000 for the fiscal year ending June 30, 1969, and $200,000,000 for the fiscal year ending June 30, 1970.

### ALLOTMENT TO STATES

20 U.S.C. 822.

81 Stat. 788.

Sec. 202. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 201(b). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, for the fiscal year ending June 30, 1968, and the fiscal year ending June 30, 1969, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) From the sums appropriated for carrying out this title for any fiscal year pursuant to section 201(b), the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

### STATE PLANS

20 U.S.C. 823.

Sec. 203. (a) Any State which desires to receive grants under this title shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

(1) designates a State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotment under section 202 will be expended solely for (A) acquisition of library resources (which for the purposes of this title means books, periodicals, documents, audiovisual materials, and other related library ma-

terials), textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools in the State, and (B) administration of the State plan, including (i) the development and revision of standards relating to library resources, text books, and other printed and published instructional materials furnished for the use of children and teachers in the public elementary and secondary schools of the State, and (ii) the distribution and control by a local educational agency of such library resources, textbooks, and other instructional materials in carrying out such State plan for the use of children and teachers in schools referred to in clause (A), except that the amount used for administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of the amount paid to the State under this title for that year or $50,000, whichever is greater;

(3) sets forth the criteria to be used in allocating library resources, textbooks, and other printed and published instructional materials provided under this title among the children and teachers of the State, which criteria shall—

(A) take into consideration the relative need, as determined from time to time, of the children and teachers of the State for such library resources, textbooks, or other instructional materials.

(B) provide assurance that to the extent consistent with law such library resources, textbooks, and other instructional materials will be provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the State, and

(C) provide assurance that, in order to secure the effective and efficient use of Federal funds, there will be appropriate coordination at both State and local levels between the program carried out under this title with respect to library resources and the program (if any) carried out under the Library Services and Construction Act (20 U.S.C. ch. 16);

(4) sets forth the criteria to be used in selecting the library resources, textbooks, and other instructional materials to be provided under this title and for determining the proportions of the State's allotment for each fiscal year which will be expended for library resources, textbooks, and other printed and published instructional materials, respectively, and the terms by which such library resources, textbooks, and other instructional materials will be made available for the use of children and teachers in the schools of the State;

(5) sets forth policies and procedures designed to assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private

**school funds that would in the absence of such Federal funds be made available for library resources, textbooks, and other printed and published instructional materials, and in no case supplant such State, local, and private school funds;**

**(6) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbusement of, and accounting for, Federal funds paid to the State (including any such funds paid by the State to any other public agency) under this title; and**

**(7) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.**

**(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).**

### PAYMENTS TO STATES

**20 U.S.C. 824.**

**SEC. 204. (a) From the amounts allotted to each State under section 202 the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.**

**(b) In any State which has a State plan approved under section 203(b) and in which no State agency is authorized by law to provide library resources, textbooks, or other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary schools in such State, the Commissioner shall arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for such use and shall pay the cost thereof for any fiscal year ending prior to July 1, 1970, out of that State's allotment.**

### PUBLIC CONTROL OF LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIAL AND TYPES WHICH MAY BE MADE AVAILABLE

**20 U.S.C. 825.**

**SEC. 205. (a) Title to library resources, textbooks, and other printed and published instructional materials furnished pursuant to this title, and control and administration of their use, shall vest only in a public agency.**

**(b) The library resources, textbooks, and other printed and published instructional materials made available pursuant to this title for use of children and teachers in any school in any State shall be limited to those which have been approved by an appropriate State, or local educational authority or agency for use, or, are used, in a public elementary or secondary school of that State.**

### ADMINISTRATION OF STATE PLANS

SEC. 206. (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State agency administering the plan reasonable notice and opportunity for a hearing. 20 U.S.C. 826.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

(1) that the State plan has been so changed that it no longer complies with the provisions of section 203(a), or

(2) that in the administration of the plan there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

### JUDICIAL REVIEW

SEC. 207. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 203(a) or with his final action under section 206(b), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. 20 U.S.C. 827.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

## TITLE III—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES*

### APPROPRIATIONS AUTHORIZED

SEC. 301. (a) The Commissioner shall carry out a program for making grants for supplementary educational centers and 20 U.S.C. 841. 81 Stat. 788.

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*NOTE.—By section 132 of Public Law 90-247 the revision of Title III made by Public Law 90-247 shall be effective July 1, 1968, except as indicated in the footnotes to sections 301(b), 305(a), and 309 of Title III. Section 132(c) of Public Law 90-247 provides, however:

"The Commissioner is authorized, upon enactment of this Act to take such steps as he may deem appropriate in order to prepare to implement the amendment made by [Public Law 90-247]."

services, to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs.

(b) For the purpose of making grants under this title, there is hereby authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1966; $175,000,000 for the fiscal year ending June 30, 1967; $500,000,000 for the fiscal year ending June 30, 1968; $512,500,000 for the fiscal year ending June 30, 1969; and $550,000,000 for the fiscal year ending June 30, 1970. In addition, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1968, and each of the two succeeding fiscal years, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this title.

### ALLOTMENT AMONG STATES

20 U.S.C. 842.
81 Stat. 789.

SEC. 302. (a) (1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for grants under this title. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition for each fiscal year ending prior to July 1, 1969, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary to provide programs and projects for the purpose of this title for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) From the sums appropriated for making grants under this title for any fiscal year pursuant to section 301(b), the Commissioner shall allot $200,000 to each State and shall allot the remainder of such sums among the States as follows:

(A) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States, and

(B) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population of the State bears to the population of all the States.

For the purposes of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of children aged five to seventeen, inclusive, and the total population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) The amount allotted to any State under subsection (a) for any fiscal year, which the Commissioner determines will not be required for the period for which that amount is available, shall be available for grants pursuant to section 306 in such State, and if not so needed may be realloted or used for grants pursuant to section 306 in other States. Funds available for reallotment may be reallotted from time to time, on such dates during that period as the Commissioner may fix, among other States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that period; and the total of these reductions may be similarly reallotted among the the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 301 for any fiscal year shall be deemed to be a part of the amount allotted to it under subsection (a) for that year.

(d) The amounts made available under the first sentence of subsection (c) for any fiscal year shall remain available for grants during the next succeeding fiscal year.

USES OF FEDERAL FUNDS

SEC. 303. (a) Funds appropriated pursuant to section 301 shall, except as provided in subsection (b), be available only for grants in accordance with applications approved pursuant to this title for— 20 U.S.C. 843. 81 Stat. 790.

(1) planning for and taking other steps leading to the development of programs or projects designed to provide supplementary educational activities and services described in paragraphs (2) and (3), including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment or expansion of exemplary and innovative educational programs (including dual-enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs (including those described in section 503(4) and special programs for handicapped children) in the schools of the State; and

(3) the establishment, maintenance, operation, and expansion of programs or projects, including the lease or construction of necessary facilities and the acquisition of necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a

**diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as—**

**(A) comprehensive guidance and counseling, remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;**

**(B) comprehensive academic services and, where appropriate, vocational guidance and counseling, for continuing adult education;**

**(C) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;**

**(D) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;**

**(E) developing, producing, and transmitting radio and television programs for classroom and other educational use;**

**(F) in the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;**

**(G) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilingual education methods, and visiting teachers' programs;**

**(H) encouraging community involvement in educational programs; and**

**(I) other specially designed educational programs or projects which meet the purposes of this title.**

**(b) In addition to the uses specified in subsection (a), funds appropriated for carrying out this title may be used for—**

**(1) proper and efficient administration of State plans;**

**(2) obtaining technical, professional, and clerical assistance and the services of experts and consultants to assist**

the advisory councils authorized by this title in carrying out their responsibilities; and

(3) evaluation of plans, programs, and projects, and dissemination of the results thereof.

APPLICATIONS FOR GRANTS—CONDITIONS FOR APPROVAL

SEC. 304. (a) A grant under this title pursuant to an approved State plan or by the Commissioner for a supplementary educational center or service program or project may be made only to a local educational agency or agencies, and then only if there is satisfactory assurance that, in the planning of that program or project there has been, and in the establishment and carrying out thereof there will be, participation of persons broadly representative of the cultural and educational resources of the area to be served. The term 'cultural and educational resources' includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources. Such grants may be made only upon application to the appropriate State educational agency or to the Commissioner, as the case may be, at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such applications shall— 20 U.S.C. 844. 81 Stat. 791.

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes set forth in section 303(a) and provide for such methods of administration as are necessary for the proper and efficient operation of the programs;

(3) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 303(a), and in no case supplant such funds;

(4) provide, in the case of an application for assistance under this title which includes a project for the construction of necessary facilities, satisfactory assurance that—

(A) reasonable provision has been made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities,

(B) upon completion of the construction, title to the facilities will be in a State or local educational agency,

(C) in developing plans for such facilities, (i) due consideration will be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and (ii) there will be compliance with such standards as the Secretary may prescribe or approve in order to insure that, to the extent appropriate in view of the uses to be made of the facilities, such facilities are accessible to and usable by handicapped persons, and

(D) the requirements of section 310 will be complied with;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(6) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) An application by a local educational agency for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources and will substantially increase the educational opportunities in the area to be served by the applicant, and

(B) to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type provided by the program or project, makes provision for the participation of such children; and

(3) has been reviewed by a panel of experts.

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or purusant to regulations, be subject to approval in the same manner as original applications.

STATE ADVISORY COUNCILS AND STATE PLANS

20 U.S.C. 845.
81 Stat. 792.

Sec. 305. (a) (1) Any State desiring to receive payments for any fiscal year to carry out a State plan under this title shall (a) establish within its State educational agency a State advisory council (hereinafter referred to as the 'State advisory council') which meets the requirements set forth in paragraph (2), (B) set dates before which local educational agencies must have submitted applications for grants to the State educational agency, and (C) submit to the Commissioner, through its State educational agency, a State plan at such time and in such detail as the Commissioner may deem necessary. The Commissioner may, by regulation, set uniform dates for the submission of State plans and applications.

(2) The State advisory council, established pursuant to paragraph (1), shall—

(A) be appointed by the State educational agency, and be broadly representative of the cultural and educational resources of the State (as defined in section 304(a)) and of the public, including persons representative of—

(i) elementary and secondary schools,

(ii) institutions of higher education, and

(iii) areas of professional competence in dealing with children needing special education because of physical or mental handicaps;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for approval of applications under such State plan;

(C) review, and make recommendations to the State educational agency on the action to be taken with respect to, each application for a grant under the State plan;

(D) evaluate programs and projects assisted under this title;

(E) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council, established pursuant to this title, at such times, in such form, and in such detail, as the Secretary may prescribe; and

(F) obtain such professional, technical, and clerical assistance as may be necessary to carry out its functions under this title.[1]

(b) The Commissioner shall approve a State plan, or modification thereof, if he determines that the plan submitted for that fiscal year—

(1) sets forth a program (including educational needs, and their basis, and the manner in which the funds paid to the State under this title shall be used in meeting such educational needs) under which funds paid to the State under section 307(a) will be expended solely for the improvement of education in the State through grants to local educational agencies for programs or projects in accordance with sections 303 and 304: *Provided*, That, in the case of a State educational agency that also is a local educational agency, its approval of a program or project to be carried out by it in the latter capacity shall, for the purposes of this title, be deemed an award of a grant by it upon application of a local educational agency if the State plan contains, in

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[1] **By section 132 of Public Law 90-247, the amendments to section 305(a), concerning State advisory councils, made by Public Law 90-247 shall be effective as of the date of enactment of Public Law 90-247.**

addition to the provisions otherwise required by this section, provisions and assurances (applicable to such program or project) that are fully equivalent to those otherwise required of a local educational agency;

(2) sets forth the administrative organization and procedures including the qualifications for personnel having responsibilities in the administration of the plan in such detail as the Commissioner may prescribe by regulation;

(3) sets forth criteria for achieving an equitable distribution of assistance under this title, which criteria shall be based on consideration of (A) the size and population of the State, (B) the geographic distribution and density of the population within the State, and (C) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities described in section 303, and the financial ability of the local educational agencies serving such persons to provide such services and activities;

(4) provides for giving special consideration to the application of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs, including preschool education for four- and five-year-olds and including where appropriate bilingual education, because some or all of its schools are seriously overcrowded (as a result of growth or shifts in enrollment or otherwise), obsolete, or unsafe;

(5) provides that, in approving applications for grants for programs or projects, applications proposing to carry out programs or projects planned under this title will receive special consideration;

(6) provides for adoption of effective procedures (A) for the evaluation, at least annually, of the effectiveness of the programs and projects, by the State advisory council, supported under the State plan in meeting the purposes of this title, (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for adopting, where appropriate, promising educational practices developed through such programs or projects;

(7) provides that not less than 50 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for purposes of paragraphs (1) and (2) of section 303(a);

(8) provides that not less than 15 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for special programs or projects for the education of handicapped children;

(9) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the fiscal effort (determined in accordance with criteria prescribed by the

Commissioner, by regulation) that would, in the absence of such Federal funds, be made by the applicant for educational purposes;

(10) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title;

(11) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the areas served by programs or projects supported under the State plan and in the State as a whole, including reports of evaluations made in accordance with objective measurements under the State plan pursuant to paragraph (6), and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(12) provides that final action with respect to any application (or amendment thereof) regarding the proposed final disposition thereof shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing; and

(13) contains satisfactory assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under this title shall not be taken into consideration.

(c) The Commissioner may, if he finds that a State plan for the fiscal year ending June 30, 1969, is in substantial compliance with the requirements set forth in subsection (b), approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 307) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: *Provided*, That the amount made available to a State pursuant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

(d) A State which has had a State plan approved for any fiscal year may receive for the purpose of carrying out such plan an amount not in excess of 75 per centum of its allotment pursuant to section 302 for the fiscal year ending June 30, 1969, and for the fiscal year ending June 30, 1970, plus for such fiscal year ending June 30, 1970, such part of the remainder of such allotment as is not used pursuant to section 306.

(e)(1) The Commissioner shall not finally disapprove any plan submitted under subsection (a), or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearings to any State educational agency, finds that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 305 or with any requirement set forth in the application of a local educational agency approved pursuant to section 304, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

(3)(A) If any State is dissatisfied with the Commissioner's final action with respect to the approval of a plan submitted under subsection (a) or with his final action under paragraph (2), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings.

(C) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(f)(1) If any local educational agency is dissatisfied with the final action of the State educational agency with respect to approval of an application by such local agency for a grant pursuant to this title, such local agency may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State educational agency. The State educational agency thereupon shall file in the court the record of the proceedings on which the State educational agency based its action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the State educational agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State educational agency to take further evidence, and the State educational agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

(3) The court shall have jurisdiction to affirm the action of the State educational agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### SPECIAL PROGRAMS AND PROJECTS

SEC. 306. (a) From the portion described in subsection (c) of the amount allotted to any State, pursuant to section 302, the Commissioner is authorized, subject to the provisions of section 304, to make grants to local educational agencies in such State for programs or projects which meet the purposes of section 203 and which, in the case of a local educational agency in a State which has a State plan approved, hold promise of making a substantial contribution to the solution of critical educational problems common to all or several States. The Commissioner may not approve an application under this section unless the application has been submitted to the appropriate State educational agency for comment and recommendation with respect to the action to be taken by the Commissioner regarding the disposition of the application.

20 U.S.C. 846.
81 Stat. 796.

(b) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of handicapped children.

(c) For the fiscal year ending June 30, 1969, not in excess of 25 per centum of a State's allotment shall be available for the purposes of this section, and for the fiscal year ending June 30, 1970, only such part, not in excess of 25 per centum, of such allotment shall be available as is necessary to continue toward completion projects pursuant to this section in such State which were initiated prior to such fiscal year except that, for the fiscal year ending June 30, 1969, any portion of a State's allotment which is not available for grants under an approved State plan shall be available for grants in such State under this section.

### PAYMENTS

SEC. 307. (a) From the allotment to each State pursuant to section 302, for any fiscal year, the Commissioner shall pay to each State, which has had a plan approved pursuant to section 305 for that fiscal year, the amount necessary to carry out its State plan as approved.

20 U.S.C. 847.
81 Stat. 796.

(b) The Commissioner is authorized to pay to each State amounts necessary for the activities described in section 303(b), during any fiscal year, except that (1) the total of such payments shall not be in excess of an amount equal to 7½ per centum of its allotment for that fiscal year or, $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, and (2) in such payment, the amount paid for the administration of the State plan during the fiscal year ending June 30, 1970, shall not exceed an amount equal to 5 per centum of its allotment for that fiscal year or $100,000 ($35,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater.

(c) The Commissioner shall pay to each applicant which has an application approved pursuant to section 306 the amount necessary to carry out the program or project pursuant to such application.

(d) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(e) No payments shall be made under this title to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort of that State for State aid (as defined by regulation) with respect to the provision of free public education in that State for the preceding fiscal year was not less than such fiscal effort for State aid for the second preceding fiscal year.

### RECOVERY OF PAYMENTS

20 U.S.C. 848.
81 Stat. 797.

SEC. 308. If within twenty years after completion of any construction for which Federal funds have been paid under this title—

(a) the owner of the facility shall cease to be a State or local educational agency, or

(b) the facility shall cease to be used for the educational and related purposes for which it was constructed, unless the Commissioner determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United

States district court for the district in which the facility is situated.

### NATIONAL ADVISORY COUNCIL

SEC. 309. (a) The President shall, by January 31, 1968, appoint a National Advisory Council on Supplementary Centers and Services which shall— 20 U.S.C. 849. 81 Stat. 797.

(1) review the administration of, general regulations for, and operation of this title, including its effectiveness in meeting the purposes set forth in section 303;

(2) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to section 305(a)(2)(E);

(3) evaluate programs and projects carried out under this title and disseminate the results thereof; and

(4) make recommendations for the improvement of this title, and its administration and operation.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of twelve members, a majority of whom shall be broadly representative of the educational and cultural resources of the United States including at least one person who has professional competence in the area of education of handicapped children. Such members shall be appointed for terms of three years except that (1) in the case of the initial members, four shall be appointed for terms of one year each and four shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. When requested by the President, the Secretary of Health, Education, and Welfare shall engage such technical and professional assistance as may be required to carry out the functions of the Council, and shall make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out its functions.

(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report.

(d) Members of the Council who are not regular full-time employees of the United States shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.[2]

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[2] By section 132 of Public Law 90-247, the addition of section 309 to title III, shall be effective as of the date of enactment of Public Law 90-247.

### LABOR STANDARDS

81 Stat. 798. Sec. 310. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

### TITLE IV—EDUCATIONAL RESEARCH AND TRAINING

*(Title IV made amendments to the Act of July 26, 1954, P.L. 531, 83d Congress (62 Stat. 533) and renamed such Act the "Cooperative Research Act".)*

## TITLE V—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

### APPROPRIATIONS AUTHORIZED

20 U.S.C. 861. Sec. 501. (a) The Commissioner shall carry out a program for making grants to stimulate and assist States in strengthening the leadership resources of their State educational agencies, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of States.

(b) For the purpose of making grants under this title, there is hereby authorized to be appropriated the sum of $25,000,000 for the fiscal year ending June 30, 1966, $30,000,000 for the fiscal year ending June 30, 1967, $65,000,000 for the fiscal year ending June 30, 1968, and $80,000,000 each for the fiscal years ending June 30, 1969, and June 30, 1970. 81 Stat. 799.

### APPORTIONMENT AMONG STATES

20 U.S.C. 862. Sec. 502. (a)(1) From 95 per centum[3] of the sums appropriated for carrying out this title for each fiscal year, the Commissioner shall eserve such amount, but not in excess of 2 per centum of such 95 per centum of such sums, as he may determine and shall apportion such amount among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Island; according to their respective needs for assistance under this title. The remainder of such per centum of such sums shall be apportioned by the Commissioner as follows: 81 Stat. 799. 81 Stat. 799.

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

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[3] Section 145 of Public Law 90-247 increased from 85 percent to 95 percent the amount of appropriated funds available for apportionment among the States effective for fiscal years beginning after June 30, 1968.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

81 Stat. 799.
81 Stat. 800.

(2) Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be reserved by the Commissioner for grants for special projects pursuant to section 505.

(b)(1) The amount apportioned to any State under paragraph (1) of subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a)(1) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of these reductions shall be semilarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this subsection from funds appropriated pursuant to section 501 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a)(1) for that year.

(2) In accordance with regulations of the Commissioner any State may file with him a request that a specified portion of the amount apportioned to it under subsection (a)(1) be added to the amount apportioned to another State under that subsection for the purpose of meeting a portion of the cost of carrying out one or more programs or activities under an approved application of that other State. If the Commissioner finds that the programs or activities with respect to which the request is made would meet needs of the State making the request and the use of the specified portion of the amount apportioned to that State, as requested by it, would assist in carrying out the purpose of this title, that portion shall be added to the amount apportioned to the other State under subsection (a)(1) to be used for the purpose referred to above.

### GRANTS FROM APPORTIONED FUNDS

20 U.S.C. 863.

SEC. 503. From the amount apportioned to any State for any fiscal year under section 502 the Commissioner may, upon approval of an application or applications therefor submitted to him by such State through the State educational agency, make a grant or grants to such agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 501(a) and more particularly described in such application and for which such application is approved, such as—

(1) educational planning on a statewide basis, including the identification of educational problems, issues, and needs in the State and the evaluation on a periodic or continuing basis of education programs in the State;

(2) providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of State and local educational data, including the use of automated data systems;

(3) dissemination or support for the dissemination of information relating to the condition, progress, and needs of education in the State;

(4) programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (B) discovering and testing new educational ideas (including new uses of printed and audio-visual media) and more effective educational practices, and putting into use those which show promise of success, and (C) studying ways to improve the legal and organizational structure for education and the management and administration of education in the State;

(5) publication and distribution, or support for the publication and distribution, of curricular materials collected and developed at curriculum research centers and elsewhere;

(6) programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and local educational agencies;

81 Stat. 799.

(7) programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as teacher aides) in elementary and secondary schools on a permanent basis;

(8) studies or support for studies concerning the financing of public education in the State;

(9) support for statewide programs designed to measure the educational achievement of pupils;

(10) training and otherwise developing the competency of individuals who serve State or local educational agencies and provide leadership, administrative, or specialist services throughout the State, or throughout the area served by a local educational agency, through the initiation, improvement, and expansion of activities such as (A) sabbatical leave programs, (B) fellowships and traineeships (including educational expenses and the cost of travel) for State educational agency personnel to pursue graduate studies, and (C) conducting institutes, workshops, and conferences (including related costs of operation and payment of the expenses of participants);

(11) providing local educational agencies and the schools of those agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

(12) evaluation and demonstration projects to insure that benefits obtained by children in Headstart and other preschool programs are not lost during their early elementary school years, but are instead enhanced so as to provide continuity in and accelerated development of the child's learning, academic and other social achievements;

(13) programs for providing grants to local educational 81 Stat. 800. agencies in metropolitan areas to enable them to engage in comprehensive planning to meet their particular needs, either alone or in cooperation with other such agencies; and

(14) a program, which shall be included in each such 81 Stat. 800. overall program for each fiscal year pursuant to this section, for distributing in the State in an equitable manner on the basis of need among local educational agencies, within the State at least 10 per centum of such amount to be used by such agencies for any of the purposes of this title as applied to a local educational agency in lieu of a State educational agency.[4]

## APPROVAL OF APPLICATIONS FOR GRANTS FROM APPORTIONED FUNDS

**Sec. 504.** An application for a grant under section 503 may 20 U.S.C. 864. be approved by the Commissioner only upon his determination that—

(a) each of the proposed projects, programs, and activities for which it is approved meets the requirements of section 503 and will make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of the State;

(b) the application contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State funds that would in the absence of such Federal funds be made available for projects and activities which meet the requirements of section 503;

(c) the application sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any such funds paid by the

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[4] By section 145(c) of Public Law 90-247 the addition of subsections (13) and (14) to section 503 shall be effective for fiscal years beginning after June 30, 1968.

State to agencies, institutions, or organizations) under this title; and

(d) the application provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

### SPECIAL PROJECT GRANTS

20 U.S.C. 865.
81 Stat. 800.

SEC. 505. Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be used by the Commissioner to make grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership or for the establishment of special services which, in the judgment of the Commissioner, hold promise of making a substantial contribution to the solution of problems common to the State educational agencies of all or several States, and for grants to public regional interstate commissions or agencies for educational planning and research.

81 Stat. 800.

### PAYMENTS

20 U.S.C. 866.

SEC. 506. Payments pursuant to grants under this title may be made in installments, and in advance or by way or reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

### INTERCHANGE OF PERSONNEL WITH STATES

20 U.S.C. 867.

SEC. 507. (a) For the purposes of this section, the term "State" means a State or any agency of a State engaged in activities in the field of education, but it does not incude a local educational agency; and the term "Office" means the Office of Education.

(b) The Commissioner is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Office and assignment of officers and employees in the Office to States, for work which the Commissioner determines will aid the Office in more effective discharge of its responsibilities as authorized by law, including cooperation with States and the provision of technical or other assistance. The period of assignment of any officer or employee under an arrangement shall not exceed two years.

(c)(1) Officers and employees in the Office assigned to any State pursuant to this section shall be considered, during such assignment, to be (A) on detail to a regular work assignment in the Office, or (B) on leave without pay from their positions in the Office.

(2) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Office for all purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the Office and the State involved.

(3) In the case of persons so assigned and on leave without pay—

(A) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Office they may receive supplemental salary payments from the Office in the amount considered by the Commissioner to be justified, but not at a rate in excess of the difference between the State rate and the Office rate; and

(B) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Commissioner to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

(C) to continuation of their insurance under the Federal Employees' Group Life Insurance under Act of 1954, and coverage under the Federal Employees Health Benefits Act of 1959, so long as the Office continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such Acts the amount of the employee's contributions and the Government's contribution from appropriations of the Office; and

5 U.S.C. 2091 note.*
5 U.S.C. 3001 note.**

(D) to credit the period of their assignment under the arrangement under this section toward periodic or longevity step increases, and for retention and leave accrual purposes, and upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Commissioner into such fund of the amount which would have been payable by him during the period of such assignment, with respect to a like Federal salary, to treat (notwithstanding the provisions of the Independent Offices Appropriation Act, 1959, under the head "Civil Service Retirement and Disability Fund") their service during such period as service within the meaning of the Civil Service Retirement Act;

5 U.S.C. 2251 note.***

except that no officer or employee or his beneficiary may receive any benefits under the Civil Service Retirement Act, the Federal Employees Health Benefits Act of 1959, or the Federal Employees' Group Life Insurance Act of 1954, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Office shall deposit currently in the funds created under the Federal Employees' Group Life

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*Recodified and enacted into positive law as 5 U.S.C. Chapter 87, by P.L. 89-554.
**Recodified and enacted into positive law as 5 U.S.C. Chapter 89, by P.L. 89-554.
***Recodified and enacted into positive law as 5 U.S.C. Chapter 83, by P.L. 89-554.

Insurance Act of 1954, the Federal Employees Health Benefits Act of 1959, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these Acts on account of service with respect to which employee contributions are collected as provided in subparagraph (C) and the amount of the Government's contribution under the Civil Service Retirement Act on account of service with respect to which payments (of the amount which would have been deducted under that Act) referred to in subparagraph (D) are made to such civil service retirement and disability fund.

5 U.S.C. 2091 note.**
5 U.S.C. 3001 note.**

(4) Any such officer or employee on leave without pay who suffers disability or death as a result of personal injury sustained while in the performance of his duty during an assignment hereunder, shall be treated, for the purposes of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

5 U.S.C. 751 note.***

(d) Assignment of any officer or employee in the Office to a State under this section may be made with or without reimbursement by the State for the compensation (or supplementary compensation), travel and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

(e) Appropriations to the Office shall be available, in accordance with the standardized Government travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this section on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods and personal effects, in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(f) Officers and employees of States who are assigned to the Office under an arrangement under this section may (1) be given appointments in the Office covering the periods of such assignments, or (2) be considered to be on detail to the Office. Appointments of persons so assigned may be made without

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**See reference to recodification accompaning citations to sec. 507(c)(3)(C).

***Recodified and enacted into positive law as 5 U.S.C. Chapter 81, by P.L. 89-554.

regard to the civil service laws. Persons so appointed in the Office shall be paid at rates of compensation determined in accordance with the Classification Act of 1949, and shall not be considered to be officers or employees of the Office for the purposes of (1) the Civil Service Retirement Act, (2) the Federal Employees' Group Life Insurance Act of 1954, or (3) unless their appointments result in the loss of coverage in a group health benefits plan whose premium has been paid in whole or in part by a State contribution, the Federal Employees Health Benefits Act of 1959. State officers and employees who are assigned to the Office without appointment shall not be considered to be officers or employees of the Office, except as provided in subsection (g), nor shall they be paid a salary or wage by the Office during the period of their assignment. The supervision of the duties of such persons during the assignment may be governed by agreement between the Commissioner and the State involved.

5 U.S.C. 1071 note.[*]
5 U.S.C. 2251 note.[**]
5 U.S.C. 2091 note.[***]
5 U.S.C. 3001 note.[****]

(g)(1) Any State officer or employee who is assigned to the Office without appointment shall nevertheless, be subject to the provisions of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(2) Any State officer or employee who is given an appointment while assigned to the Office, or who is assigned to the Office without appointment, under an arrangement under this section, and who suffers disability or death as a result of personal injury sustained while in the performance of his duty during such assignment shall be treated, for the purpose of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents, in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

5 U.S.C. 751 note.[*****]

(h) The appropriations to the Office shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Office under an arrangement under this section.

(i) All arrangements under this section for assignment of officers or employees in the Office to States or for assignments of officers or employees of States to the Office shall be made in accordance with regulations of the Commissioner.

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[*] Recodified and enacted into positive law as 5 U.S.C. chapter 81, by P.L. 89-554.

[**] See reference to recodification accompanying citations to sec. 507(c)(3)(D).

[***] See reference to recodification accompanying citations to sec. 507(c)(3).

[****] See reference to recodification accompanying citations to sec. 507(c)(3)(C).

[*****] See reference to recodification accompanying citations to sec. 507(c)(4).

### ADMINISTRATION OF STATE PLANS

20 U.S.C. 868. SEC. 508. (a) The Commissioner shall not finally disapprove any application submitted under section 504, or any modification thereof, without first affording the State educational agency submitting the application reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency administering a program under an application approved under this title, finds—

(1) that the application has been so changed that it no longer complies with the provisions of section 504(a), or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State educational agency that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

### JUDICIAL REVIEW

20 U.S.C. 869. SEC. 509. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of an application submitted under section 504(a) or with his final action under section 508(b), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### PERIODIC REVIEW OF PROGRAM AND LAWS

20 U.S.C. 870. SEC. 510. (a) The Secretary shall, within ninety days after the date of enactment of this title, appoint an Advisory Council on State Department of Education for the purpose of reviewing the administration of the programs for which funds are appropriated pursuant to this title and making recommendations for improvement of such administration, and reviewing

the status of and making recommendations with respect to such programs and this title and with respect to other Acts under which funds are appropriated to assist State educational agencies to administer Federal programs relating to education.

(b) The Council shall be appointed by the Secretary without regard to the civil service laws and shall consist of twelve persons who shall, to the extent possible, include persons familiar with the educational needs of the Nation, persons familiar with the administration of State and local educational programs, and persons representative of the general public.

(c) The Secretary is authorized to engage such technical assistance as may be required to carry out the functions of the Council, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(d) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title and of other education Acts) to the Secretary not later than March 31 of each calendar year beginning after the enactment of this title. The Secretary shall transmit each such report to the President and the Congress together with his comments and recommendations.

(e) Members of the Council who are not regular full-time employees of the United States shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703) for persons in Government service employed intermittently.

## TITLE VI—EDUCATION OF HANDICAPPED CHILDREN*

### PART A—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

#### GRANTS TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

SEC. 601. The Commissioner is authorized to make grants pursuant to the provisions of this part for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) for the education of handicapped children (as defined in section 602) at the preschool, elementary and secondary school levels. 81 Stat. 813.

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*Public Law 90-247 made changes in several section numbers of title VI and added new section thereto. In view of possible changes in United States Code section number to reflect such changes and additions, citations to the code, formerly 20 U.S.C. 871 et seq., have been omitted.

### APPROPRIATIONS AUTHORIZED

SEC. 602. For the purpose of making grants under this part there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1967, $150,000,000 for the fiscal year ending June 30, 1968, $162,500,000 for the fiscal year ending June 30, 1969, and $200,000,000 for the fiscal year ending June 30, 1970.

81 Stat. 813.

### ALLOTMENT OF FUNDS

SEC. 603. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 601(b), except that no State shall be allotted less than $100,000 or three-tenths of 1 per centum of such amount available for allotment to the States, whichever is greater. The Commissioner shall allot the amount appropriated pursuant to this paragraph among—

81 Stat. 804.

(A) Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs, and

(B) for the fiscal year ending June 30, 1968, and the succeeding fiscal year, (i) the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (ii) the Secretary of Defense according to the need for such assistance for the education of handicapped children in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(2) From the total amount appropriated pursuant to section 601(b) for any fiscal year the Commissioner shall allot to each State an amount which bears the same ratio to such amount as the number of children aged three to twenty-one, inclusive, in the State bears to the number of such children in all the States. For purposes of this subsection, the term "State" shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(b) The number of children aged three to twenty-one, inclusive, in any State and in all the States shall be determined, for purposes of this section, by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

### STATE PLANS

SEC. 604. Any State which desires to receive grants under this part shall submit to the Commissioner through its State educational agency a State plan in such detail as the Commissioner deems necessary. The Commissioner shall not approve a State plan or a modification of a State plan under this part unless the plan meets the following requirements:

(a) The plan must provide satisfactory assurance that funds paid to the State under this part will be expended, either directly or through local educational agencies, solely to initiate, expand, or improve programs and projects, including preschool programs and projects, (A) which are designed to meet the special educational and related needs of handicapped children throughout the State, (B) which are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and (C) which may include the acquisition of equipment and where necessary the construction of school facilities. Nothing in this part shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this part. The plan may provide up to 5 per centum of the amount allotted to the State for any fiscal year or $75,000 ($25,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, may be expended for the proper and efficient administration of the State plan (including State leadership activities and consultative services), and for planning on the State and local level.

(b) The plan must provide satisfactory assurance that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision will be made for participation of such children in programs assisted or carried out under this part.

(c) The plan must provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property.

(d) The plan must set forth policies and procedures which provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds expended for the education of handicapped children, and in no case supplant such State, local, and private funds.

(e) The plan must provide that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of, and providing related services for, handicapped children.

(f) The plan must provide that the State educational agency will be the sole agency for administering or supervising the administration of the plan.

(g) The plan must provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this part, including reports of the objective measurements required by paragraph (e) of this subsection; and the plan must also provide for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(h) The plan must provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies.

(i) The plan must provide satisfactory assurance that funds paid to the State under this part shall not be made available to any school for handicapped children eligible for assistance under section 203(a)(5) of title II of Public Law 874, Eighty-first Congress. 20 U.S.C. 241c.

(j) The plan must provide satisfactory assurance, in the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 610 will be complied with on all such construction projects.

(k) The plan must provide satisfactory assurance that effective procedures will be adopted for acquiring and disseminating to teachers and administrators of handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

### PAYMENTS

SEC. 605. From the amounts allotted to each State under section 603, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. These payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

### ADMINISTRATION OF STATE PLANS

SEC. 606. (a) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State agency administering the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Commission, after reasonable notice and opportunity for hearing to such State agency, finds—

(1) that the State plan has been so changed that it no longer complies with the provisions of section 604, or

(2) that in the administration of the plan there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

### JUDICIAL REVIEW

SEC. 607. (a) If any State is dissatisfied with the Commsisioner's final action with respect to the approval of its State plan submitted under section 604 or with his final action under section 606(b), such State may, within sixty days after notice ot such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

## PART B—REGIONAL RESOURCE CENTERS FOR IMPROVEMENT OF THE EDUCATION OF HANDICAPPED CHILDREN

81 Stat. 801.

### REGIONAL RESOURCE CENTERS

SEC. 608. (a) For the purpose of aiding in the establishment and operation of regional centers which will develop and apply the best methods of appraising the special educational needs of handicapped children referred to them and will provide other services to assist in meeting such needs, there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1968, $7,750,000 for the fiscal year ending June 30, 1969, and $10,000,000 for the fiscal year ending June 30, 1970.

(b) Appropriations under this section shall be available to the Commissioner for grants to or contracts with institutions of higher education, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies), within particular regions of the United States, to pay all or part of the cost of establishment (including construction) or operation of regional resource centers for the improvement of education of the handicapped in such regions. Centers established or operated under this section shall (1) provide testing and educational evaluation to determine the special educational needs of handicapped children referred to such centers, (2) develop educational programs to meet those needs, and (3) assist schools and other appropriate agencies, organizations, and institutions in providing such educational programs through services such as consultation (including, in appropriate cases, consultation with parents or teachers of handicapped children at such regional centers), periodic reexamination and reevaluation of special educational programs, and other technical services.

(c) In determining whether to approve an application for a project under this section, the Commissioner shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to develop and apply, with the assistance of funds under this section, new methods, techniques, devices, or facilities relating to educational evaluation or education of handicapped children.

(d) Payment pursuant to grants or contracts under this section may be made (after necessary adjustments on account of previously made underpayments or overpayments) in advance or by reimbursement, and in such installments and on such conditions as the Commissioner may determine.

## PART C—CENTERS AND SERVICES FOR DEAF-BLIND CHILDREN

SEC. 609. (a) It is the purpose of this part to provide, through a limited number of model centers for deaf-blind children, a program designed to develop and bring to bear upon such children, beginning as early as feasible in life, those specialized, intensive professional and allied services, methods, and aids that are found to be most effective to enable them to achieve their full potential for communication with and adjustment to the world around them, for useful and meaningful participation in society, and for self-fulfillment.

(b) The Secretary is authorized, upon such terms and conditions (subject to the provisions of subsection (d)(1) of this section) as he deems appropriate to carry out the purposes of this part, to make grants to or contracts with public or nonprofit private agencies, organizations, or institutions to pay all or part of the cost of establishment (including, when necessary, construction) or operation, or both, of centers for deaf-blind children.

(c) In determining whether to make a grant or contract under subsection (b), the Secretary shall take into consideration the need for a center for deaf-blind children in the light of the general availability and quality of existing services for such children in the part of the country involved.

(d)(1) A grant or contract pursuant to subsection (b) shall be made only if the Secretary determines that there is satisfactory assurance that the center will provide such services as he has by regulation prescribed, including at least—

(A) comprehensive diagnostic and evaluative services for deaf-blind children;

(B) a program for the adjustment, orientation, and education of deaf-blind children which integrates all the professional and allied services necessary therefor; and

(C) effective consultative services for parents, teachers, and others who play a direct role in the lives of deaf-blind children to enable them to understand the special problems of such children and to assist in the process of their adjustment, orientation, and education.

(2) Any such services may be provided to deaf-blind children (and, where applicable, other persons) regardless of whether they reside in the center, may be provided at some place other than the center, and may include the provision of transportation for any such children (including an attendant) and for parents.

(e) The Secretary is further authorized, either as part of any grant or contract under subsection (b), or by separate grant to or contract with an agency, organization, or institution operating a center meeting the requirements prescribed by or pursuant to subsection (d), to provide for the payment of all or part of the cost of such activities as—

(1) research to identify and meet the full range of special needs of deaf-blind children;

(2) development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of deaf-blind children;

(3) training (either directly or otherwise) of professional and allied personnel engaged or preparing to engage in programs specifically designed for deaf-blind children, including payment of stipends for trainees and allowances for travel and other expenses for them and their dependents; and

(4) dissemination of materials and information about practices found effective in working with deaf-blind children.

(f) For purposes of this part, the term 'construction' includes, in addition to those matters set forth in section 701(b), construction of residential facilities; and the cost of construction shall be deemed to include the cost of acquisition of land in connection with any of the foregoing, but not the cost of off-site improvements.

(g) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this part the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(h) For purposes of this part, the determination of children who are both deaf and blind shall be made in accordance with regulations of the Secretary.

(i) Payments pursuant to grants or contracts under this part may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursements, and in such installments and on such conditions as the Secretary may determine.

(j) For the purpose of carrying out this part, there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1968, $3,000,000 for the fiscal year ending June 30, 1969, and $7,000,000 for the fiscal year ending June 30, 1970.

81 Stat. 803.

## PART D—RECRUITMENT OF PERSONNEL AND INFORMATION ON EDUCATION OF THE HANDICAPPED

### GRANTS OR CONTRACTS TO IMPROVE RECRUITING OF EDUCATIONAL PERSONNEL, AND TO IMPROVE DISSEMINATION OF INFORMATION CONCERNING EDUCATIONAL OPPORTUNITIES FOR THE HANDICAPPED

SEC. 610. (a) The Commissioner is authorized to make grants to public or nonprofit private agencies, organizations, or institutions, or to enter into contracts with public or private agencies, organizations, or institutions, for projects for—

(1) encouraging students and professional personnel to work in various fields of education of handicapped children and youth through, among other ways, developing and distributing imaginative or innovative materials to assist in recruiting personnel for such careers, or publicizing existing forms of financial aid which might enable students to pursue such careers, or

(2) disseminating information about the programs, services, and resources for the education of handicapped children, or providing referral services, to parents, teachers, and other persons especially interested in the handicapped.

(b) To carry out the purposes of this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1968, and for each of the two succeeding fiscal years.

## Part E—General Provisions

### NATIONAL ADVISORY COMMITTEE ON HANDICAPPED CHILDREN

Sec. 611. (a) The Commissioner shall establish in the Office of Education a National Advisory Committee on Handicapped Children, consisting of the Commissioner, who shall be Chairman, and not more than twelve additional members, not less than 50 percentum of whom shall be persons affiliated with educational, training, or research programs for the handicapped, appointed by the Commissioner without regard to the civil service laws.

(b) The Advisory Committee shall review the administration and operation of this Act, title II of Public Law 874, Eighty-first Congress, and other provisions for law administered by the Commissioner, with respect to handicapped children, including their effect in improving the educational attainment of such children and make recommendations for the improvement of such administration and operation with respect to such children. These recommendations shall take into consideration experience gained under this and other Federal programs for handicapped children and, to the extent appropriate, experience gained under other public and private programs for handicapped children. The Advisory Committee shall from time to time make such recommendations as it may deem appropriate to the Commissioner and shall make an annual report of its findings and recommendations to the Commissioner not later than January 31 of 1968 and each fiscal year thereafter. The Commissioner shall transmit each such report to the Secretary together with his comments and recommendations, and the Secretary shall transmit such report, comments, and recommendations to the Congress together with any comments or recommendations he may have with respect thereto. 20 U.S.C. 241a-241l.

(c) Members of the Advisory Committee who are not regular full-time employees of the United States shall, while serving on business of the Committee, be entitled to receive compensation at rates fixed by the Commissioner, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently.

(d) The Commissioner may, at the request of the Advisory Committee, appoint such special advisory professional or technical personnel as may be necessary to enable the Advisory Committee to carry out its duties.

### BUREAU FOR EDUCATION AND TRAINING OF THE HANDICAPPED

Sec. 612. The Commissioner shall establish at the earliest practicable date not later than July 1, 1967, and maintain within the Office of Education a bureau for the education and training of the handicapped which shall be the principal agency in the Office of Education for administering and carrying out programs and projects relating to the education and training of the handicapped, including programs and projects for the training of teachers of the handicapped and for research in such education and training.

### LABOR STANDARDS

SEC. 613. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

### DEFINITION OF "HANDICAPPED CHILDREN"

SEC. 614. As used in this part, the term "handicapped children" includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services.

### SHORT TITLE

81 Stat. 804. SEC. 615. This title may be cited as the "Education of the Handicapped Act".

## TITLE VII—BILINGUAL EDUCATION PROGRAMS

81 Stat. 816.

### SHORT TITLE

SEC. 701. This title may be cited as the "Bilingual Education Act."

NOTE.—*By section 701 of Public Law 90-247, Congress declared its findings as to the need for bilingual education as follows:*

"The Congress hereby finds that one of the most acute educational problems in the United States is that which involves millions of children of limited English-speaking ability because they come from environments where the dominant language is other than English; that additional efforts should be made to supplement present attempts to find adequate and constructive solutions to this unique and perplexing educational situation; and that the urgent need is for comprehensive and cooperative action now on the local, State, and Federal levels to develop forward-looking approaches to meet the serious learning difficulties faced by this substantial segment of the Nation's school-age population."

### DECLARATION OF POLICY

81 Stat. 816. SEC. 702. In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs. For the purposes of this title, "children of limited English-speaking ability"

means children who come from environments where the dominant language is other than English.

### AUTHORIZATION AND DISTRIBUTION OF FUNDS

SEC. 703. (a) For the purposes of making grants under this title, there is authorized to be appropriated the sum of $15,000,000 for the fiscal year ending June 30, 1968, $30,000,000 for the fiscal year ending June 30, 1969, and $40,000,000 for the fiscal year ending June 30, 1970. 81 Stat. 816.

(b) In determining distribution of funds under this title, the Commissioner shall give highest priority to States and areas within States having the greatest need for programs pursuant to this title. Such priorities shall take into consideration the number of children of limited English-speaking ability between the ages of three and eighteen in each State.

### USES OF FEDERAL FUNDS

SEC. 704. Grants under this title may be used, in accordance with applications approved under section 705, for— 81 Stat. 817.

(a) planning for and taking other steps leading to the development of programs designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below $3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, including research projects, pilot projects designed to test the effectiveness of plans so developed, and the development and dissemination of special instructional materials for use in bilingual education programs; and 42 U.S.C. 401-428.

(b) providing preservice training designed to prepare persons to participate in bilingual education programs as teachers, teacher-aides, or other ancillary education personnel such as counselors, and inservice training and development programs designed to enable such persons to continue to improve their qualifications while participating in such programs; and

(c) the establishment, maintenance, and operation of programs, including acquisition of necessary teaching materials and equipment, designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below $3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, through activities such as—

(1) bilingual education programs;

(2) programs designed to impart to students a knowledge of the history and culture associated with their languages;

(3) efforts to establish closer cooperation between the school and the home;

(4) early childhood educational programs related to the purposes of this title and designed to improve the potential for profitable learning activities by children;

(5) adult education programs related to the purposes of this title, particularly for parents of children participating in bilingual programs;

(6) programs designed for dropouts or potential dropouts having need of bilingual programs;

(7) programs conducted by accredited trade, vocational, or technical schools; and

(8) other activities which meet the purposes of this title.

## APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

81 Stat. 817.

Sec. 705. (a) A grant under this title may be made to a local educational agency or agencies, or to an institution of higher education applying jointly with a local educational agency, upon application to the Commissioner at such time or times, in such manner and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purpose set forth in section 704 and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) set forth a program of such size, scope, and design as will make a substantial step toward achieving the purpose of this title;

(4) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds (including funds made available under title I of this Act) that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 704, and in no case supplant such funds;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title;

(6) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may

find necessary to assure the correctness and verification of such reports;

(7) provide assurance that provision has been made for the participation in the project of those children of limited English-speaking ability who are not enrolled on a full-time basis; and

(8) provide that the applicant will utilize in programs assisted pursuant to this title the assistance of persons with expertise in the educational problems of children of limited English-speaking ability and make optimum use in such programs of the cultural and educational resources of the area to be served; and for the purposes of this paragraph, the term 'cultural and educational resources' includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(b) Applications for grants under title may be approved by the Commissioner only if—

(1) the application meets the requirements set forth in subsection (a);

(2) the program set forth in the application is consistent with criteria established by the Commissioner (where feasible, in cooperation with the State educational agency) for the purpose of achieving an equitable distribution of assistance under this title within each State, which criteria shall be developed by him on the basis of a consideration of (A) the geographic distribution of children of limited English-speaking ability, (B) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in paragraph (c) of section 704, and (C) the relative ability of particular local educational agencies within the State to provide those services and activities;

(3) the Commissioner determines (A) that the program will utilize the best available talents and resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (B) that, to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which this program is intended to meet, provision has been made for participation of such children; and

(4) the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

### PAYMENTS

81 Stat. 819.

SEC. 706. (a) The Commissioner shall pay to each applicant which has an application approved under this title an amount equal to the total sums expended by the applicant under the application for the purposes set forth therein.

(b) Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

### ADVISORY COMMITTEE

81 Stat. 819.

SEC. 707. (a) The Commissioner shall establish in the Office of Education an Advisory Committee on the Education of Bilingual Children, consisting of nine members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary. The Commissioner shall appoint one such member as Chairman. At least four of the members of the Advisory Committee shall be educators experienced in dealing with the educational problems of children whose native tongue is a language other than English.

(b) The Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the development of criteria for approval of applications thereunder. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful and necessary in carrying out the functions of the Advisory Committee.

(c) Members of the Advisory Committee shall, while serving on the business of the Advisory Committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

### LABOR STANDARDS

81 Stat. 819.

SEC. 708. All laborers and mechanics employed by contractors or subcontractors on all minor remodeling projects assisted under this title shall be paid wages at rates not less than those prevailing on similar minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

49 Stat. 1011.

# TITLE VIII—GENERAL PROVISIONS

## DEFINITIONS

SEC. 801. As used in titles II, III, V, VI, and VII of this Act, except when otherwise specified—

20 U.S.C. 881.
81 Stat. 799.
81 Stat. 803.
81 Stat. 819.

(a) The term "Commissioner" means the Commissioner of Education.

(b) The term "construction" means (1) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (2) acquisition of existing structures not owned by any agency or institution making application for assistance under this Act; or (3) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(c) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(d) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials.

(e) The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to

prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions so participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(i) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(j) The term "State" includes, in addition to the several States of the Union, Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands and for purposes of titles II, III, V, VI, and VII such term includes the Trust Territory of the Pacific Islands.

81 Stat. 799.
81 Stat. 804.
81 Stat. 820.

(k) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

### ADVISORY COUNCILS

20 U.S.C. 882.

**Sec. 802.** (a) The Commissioner may, without regard to the civil service laws, and subject to the Secretary's approval in such cases as the Secretary may prescribe, from time to time appoint, in addition to the advisory councils and committees authorized in preceding titles, an advisory council of ten members to advise and consult with the Commissioner with respect to his functions under this law.

(b) Members of such an advisory council who are not regular full-time employees of the United States shall, while attending meetings or conferences of such council or otherwise engaged on business of such council, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

### FEDERAL ADMINISTRATION

SEC. 803. (a) The Commissioner may delegate any of his functions under this Act or any Act amended by this Act, except the making of regulations, to any officer or employee of the Office of Education. 20 U.S.C. 883.

(b) In administering the provisions of this Act or any Act amended by this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) In administering the provisions of this Act and any Act amended by this Act,* the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate such programs on the Federal level with the programs being administered by such other departments and agencies, and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964. 42 U.S.C. 2781.

### FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 804. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, or 20 U.S.C. 884.

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*The Acts amended by this Act include the Act of September 23, 1950, P.L. 815, 81st Congress; the Act of September 30, 1950, P.L. 874, 81st Congress; the Adult Education Act, title III of P.L. 89-750; and, the Cooperative Research Act.

over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

### LIMITATION ON PAYMENTS UNDER THIS ACT

20 U.S.C. 885.

SEC. 805. Nothing contained in this Act shall be construed to authorize the making of any payment under this Act, or under any Act amended by this Act, for religious worship or instruction.

### DISSEMINATION OF INFORMATION

20 U.S.C. 886.
20 U.S.C. 241a-241*l*.

SEC. 806. (a) For the purpose of carrying out more effectively the provisions of this Act and title II of Public Law 874, Eighty-first Congress, the Commissioner—

(1) shall prepare and disseminate to State and local educational agencies and other appropriate agencies and institutions catalogs, reviews, bibliographies, abstracts, analyses of research and experimentation, and such other materials as are generally useful for such purpose;

(2) may upon request provide advice, counsel, technical assistance, and demonstrations to State or local educational agencies or institutions of higher education undertaking to initiate or expand, programs under this Act or such title in order to increase the quality or depth or broaden the scope of such programs, and shall inform such agencies and institutions of the availability of assistance pursuant to this clause;

(3) shall prepare and disseminate to State and local educational agencies and other appropriate agencies and institutions an annual report setting forth developments in the utilization and adaptation of projects carried out pursuant to this Act and such title; and

(4) may enter into contracts with public or private agencies, organizations, groups, or individuals to carry out the provisions of this section.

81 Stat. 805.

(b) For such purpose and also for the purpose of carrying out more effectively other provisions of Federal law, the Commissioner, upon request from a State educational agency, shall provide counseling and technical assistance to elementary and secondary schools in rural areas, as defined by the Commissioner, of such State (1) in determining benefits available to such agencies and schools under Federal laws, and (2) in preparing applications and meeting other requirements for such benefits. Assistance pursuant to this subsection may, in accordance with such request, be provided by personnel from the Office of Education or be provided in the form of grants in such amounts as may be necessary for such State educational agency to employ such personnel as may be necessary to provide such assistance.

(c) There are authorized to be appropriated not to exceed $1,500,000 for the fiscal year ending June 30, 1967, $3,500,000 for the fiscal year ending June 30, 1968, $3,700,000 for the fiscal year ending June 30, 1969, and $4,000,000 for the fiscal year ending June 30, 1970. 81 Stat. 806.

### DROPOUT PREVENTION PROJECTS

SEC. 807. (a) The Commissioner is authorized to arrange by contract grant, or otherwise, with local educational agencies for the carrying out by such agencies in schools which (1) are located in urban or rural areas, (2) have a high percentage of children from families with an income not exceeding the low-income factor, as defined in section 103(c), and (3) have a high percentage of such children who do not complete their education in elementary or secondary school, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their education in elementary and secondary schools. 81 Stat. 806.

(b) The Commissioner shall approve arrangements pursuant to this section only on application by a local educational agency and upon his finding:

(1) that the project will be carried out in one or more schools described in subsection (a);

(2) that the applicant has analyzed the reasons for such children not completing their education and has designed a program to meet this problem;

(3) that effective procedures, including objective measurements of educational achievements, will be adopted for evaluating at least annually the effectiveness of the project; and

(4) that the project has been approved by the appropriate State educational agency.

(c) There is authorized to be appropriated not to exceed $30,000,000 for the period ending June 30, 1969, and $30,000,000 for the fiscal year ending June 30, 1970, for the purpose of this section.

*The following provisions were enacted as Titles IV and VI of the Elementary and Secondary Education Amendments of 1967 (P.L. 90-247)*

* * * * *

## TITLE IV—PROVISIONS FOR ADEQUATE LEADTIME AND FOR PLANNING AND EVALUATION IN ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

81 Stat. 814.

### ACTS SUBJECT TO THIS TITLE

SEC. 401. The provisions of this title shall apply to title I of the Elementary and Secondary Education Act of 1965 (title II of Public Law 81-874), titles II, III, V, VI, VII, and VIII of the Elementary and Secondary Education Act of 1965, and the Adult Education Act of 1966 (title III of the Elementary and Secondary Education Amendments of 1966), as now in effect or hereafter from time to time amended.

20 U.S.C. 241a note.
20 U.S.C. 821.
20 U.S.C. 861, 871, 881.
20 U.S.C. 1201 note.

### PROGRAM PLANNING AND EVALUATION

SEC. 402. There are authorized to be appropriated, for each fiscal year for which appropriat ons are otherwise authorized under any title or Act referred to in section 401, such sums as may be necessary, to be available to the Secretary, in accordance with regulations prescribed by him, for expenses, including grants, contracts, or other payments for (1) planning for the succeeding year programs or projects authorized under such title or Act and (2) evaluation of programs or projects so authorized.

### ADVANCE FUNDING

SEC. 403. To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any Act referred to in section 401 are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under any such Act will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

### EVALAUTION REPORTS AND CONGRESSIONAL REVIEW

SEC. 404. (a) No later than January 31 of each calendar year, the Secretary shall transmit to the respective committees of the Congress having legislative jurisdiction over any Act referred to in section 401 and to the respective Committees on Appropriations a report evaluating the results and effectiveness of programs and projects assisted thereunder during the preceding fiscal year, together with his recommendations (including any legislative recommendations) relating thereto.

(b) In the case of any such program, the report submitted in the penultimate fiscal year for which appropriations are then authorized to be made for such program shall include a comprehensive and detailed review and evaluation of such program (as up to date as the due date permits) for its entire past life, based to the maximum extent practicable on objective measurements, together with the Secretary's recommendations as to proposed legislative action.

### AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL YEAR BASIS

SEC. 405. Appropriations for any fiscal year for grants, contracts, or other payments to educational agencies or institutions under any Act referred to in section 401 may, in accordance with regulations of the Secretary, be made available for expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

## TITLE VI—STUDY FOR SCHOOLBUS SAFETY

81 Stat. 815.

### STUDY FOR SCHOOLBUS SAFETY

SEC. 601. (a) The Secretary of Health, Education, and Welfare, in cooperation with the Secretary of Transportation, is authorized to make a study and investigation in order to recommend action to promote schoolbus safety (including safety of operation), and such study may include such research and testing activities as the Secretary determines to be necessary to carry out the provisions of this title.

(b) The Secretary of Health, Education, and Welfare shall report the results of such study, together with his recommendations, to the Congress not later than January 31, 1969.

### APPROPRIATIONS AUTHORIZED

SEC. 602. There is hereby authorized to be appropriated $150,000 to carry out the provisions of this title.

### Legislative History

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

*89th Congress*—P.L. 89-10
H.R. 2362:
  House Report No. 143 (Committee on Education and Labor).
  Senate Report No. 146 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 111 (1965).
    Mar. 24-25: Considered in House.
    Mar. 26: Considered and passed House.
    Apr. 6-8: Considered in Senate.
    Apr. 9: Considered and passed Senate.

*89th Congress*—P.L. 89-750
H.R. 13161:
  House Reports: No. 1814, 1814 pt. II (Committee on Education and Labor) and No. 2309 (Committee of Conference).
  Senate Report No. 1674 accompanying S. 3046 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 112 (1966):
    Oct. 5: Considered in House.
    Oct. 6: Considered and passed House.
    Oct. 5, 6: S. 3046 considered and passed Senate.
    Oct. 7: Considered and passed Senate, amended, in lieu of S. 3046.
    Oct. 19: Senate agreed to conference report.
    Oct. 20: House agreed to conference report.

*90th Congress*—P.L. 90-247
H.R. 7819:
  House Reports: No. 188 (Committee on Education and Labor) and No. 1049 (Committee of Conference).
  Senate Report No. 726 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 113 (1967):
    May 22-24: Considered and passed House.
    Dec. 1, 4-8, 11: Considered and passed Senate amended.
    Dec. 15: House and Senate agreed to conference report.

# 2. FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION*

**Enacted on September 30, 1950, as P.L. 874, 81st Congress (64 Stat. 1100). Amended on July 31, 1953, by P.L. 170, 83d Congress, (67 Stat. 246); on August 8, 1953, by P.L. 248, 83d Congress, (67 Stat. 530); on August 31, 1954, by P.L. 732, 83d Congress, (68 Stat. 1006); on August 1, 1955, by P.L. 204, 84th Congress, (69 Stat. 433); on August 4, 1955, by P.L. 221, 84th Congress, (69 Stat. 485); on August 12, 1955, by P.L. 382, 84th Congress (69 Stat. 713); on August 1, 1956, by P.L. 896, 84th Congress, (70 Stat. 908); on August 4, 1956, by P.L. 949, 84th Congress, (70 Stat. 968); on August 12, 1958, by P.L. 85–620, (72 Stat. 548); on September 2, 1958, by P.L. 85–900, (72 Stat. 1726); on June 25, 1959, by P.L. 86–70, (73 Stat. 141); on May 6, 1960, by P.L. 86–449, (74 Stat. 86); on July 12, 1960, by P.L. 86–624, (74 Stat. 411); on October 3, 1961, by P.L. 87–344, (75 Stat. 759); on October 16, 1964, by P.L. 88–665, (78 Stat. 1100); and on April 11, 1965, by P.L. 89–10, (79 Stat. 27); on July 21, 1965, by P.L. 89–77, (79 Stat. 243); on November 1, 1965, by P.L. 89–313, (79 Stat. 1158); on November 3, 1966, by P.L. 89–750, (80 Stat. 1191); and on January 2, 1968, by P.L. 90–247 (81 Stat. 783).**

AN ACT To provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

### DECLARATION OF POLICY

SECTION 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local 20 U.S.C. 236.

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*NOTES.—*Section 111(f) of Public Law 89–750 provides for coordination of the programs of Acts amended by Public Law 89–750 as follows:*

"In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate such programs on the Federal level with the programs being administered by such other departments and agencies and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964."

****Section 2 of Public Law 90–247 sets guidelines for the administration of programs of Acts amended by Public Law 90–247 as follows:*

"Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of programs authoreducational agencies upon which the United States has placed financial burdens by reason of the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

### FEDERAL ACQUISITION OF REAL PROPERTY

20 U.S.C. 237.

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior

81 Stat. 813.

to July 1, 1970—

(1) that the United States owns Federal property in the school district of such local educational agency and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

81 Stat. 808.

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisi-

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ized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States."

****Section 182 of Public Law 89–750 as amended by section 112 of Public Law 90–247 provides for compliance with the Civil Rights Act of 1964 as follows:*

20 U.S.C. 821 nt.
20 U.S.C. 236.
20 U.S.C. 631.
20 U.S.C. 331 nt.
42 U.S.C. 2000d–2000d–4.

"The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964; *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–352), compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned."

81 Stat. 787.

****Section III of Public Law 90–247 provides for a study of the impact of children living in public housing as follows;*

"The Secretary of Health, Education, and Welfare shall make a study of the burden imposed on a local educational agency by the presence of low-rent public housing within the boundaries of its school district. The Secretary shall submit a report on the results of his study to the Senate and House of Representatives on or before May 15, 1968. Such report shall include such recommendations for legislation as the Secretary deems appropriate."

tion by increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired.

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition). 81 Stat. 808. 81 Stat. 808.

(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.[1] 81 Stat. 808.

(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency, and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

### CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

### Children of Persons Who Reside and Work on Federal Property

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and (1) did so with a parent employed on Federal property situated in whole or in part in the same State as the school district of such agency or situated within reasonable commuting distance from the school district of such agency, or (2) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949). 20 U.S.C. 238.

### Children of Persons Who Reside or Work on Federal Property

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1968, the Commissioner shall 81 Stat. 813.

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[1] By section 208 of P.L. 90-247 the amendments to section 2 (a) and (b) shall be deemed to have been enacted prior to June 30, 1967, and shall be effective for fiscal years beginning thereafter.

also determine the number of children (other than children to whom subsection (a) applies) who were in average daily attendance at the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either (1) resided on Federal property, or (2) resided with a parent employed on Federal property situated in whole or in part in the same State as such agency or situated within reasonable commuting distance from the school district of such agency, or (3) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949). For the purpose of computing the amount to which a local educational agency is entitled under this section for the fiscal year ending June 30, 1967, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or any other provision of this subsection applies) who were in average daily attendance at such schools and for whom such agency provided free public education, during such fiscal year as a result of a change in residence from land transferred to Mexico as part of a relocation of an international boundary of the United States; but if, by reason of any other provision of law, this sentence is not considered in computing the amount to which any local educational agency is entitled for the fiscal year ending June 30, 1967, the additional amount to which such agency would have been entitled had this sentence been so considered, shall be added to such agency's entitlement for the first fiscal year for which funds appropriated to carry out this Act may be used for such such purpose.

37 U.S.C. 101.

81 Stat. 809.

(c)(1) The amount to which a local educational agency is entitled under this section for any fiscal year shall be an amount equal to (A) the local contribution rate (determined under subsection (d)) multiplied by (B) the sum of the number of children determined under subsection (a) and one half of the number determined under subsection (b).

(2) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under subsection (a) or subsection (b), as the case may be, unless the number of children who were in average daily attendance during such year and to whom such subsection applies—

(A) is ten or more; and

(B) amount to, whichever is the lesser, four hundred such children, or a number of such children equal to 3 per centum or more of the total number of children who were in average daily attendance during such year and for whom such agency provided free public education, except that such 3 per centum requirement need not be met by such agency for any period of two fiscal years which follows a fiscal year during which such agency met such requirement and was entitled to payment under the provisions of this section, but the payment, under the provisions of this section to such agency for the second fiscal year of any such two-year period during which such requirement is not met, shall be reduced by 50 per centum of the amount thereof. For the purposes of this paragraph, a local educational agency may count as children determined under subsection (b) any number of children determined under subsection (a). Notwithstanding the provisions of clause (B) of this paragraph, the Commissioner may waive the 3 per centum condition of entitlement contained in such clause whenever, in his judgment, exceptional circumstances exist which would make the application of such condition inequitable and would defeat the purposes of this title.

[*Par. (3) was repealed effective on and after July 1, 1965, by Public Law 89-313.*] 79 Stat. 1161.

(4) If—

(A) the amount computed under paragraph (1) for a local educational agency for any fiscal year, together with the funds available to such agency from State, local, and other Federal sources (including funds available under section 4 of this title, but excluding funds available under title II) is, in the judgment of the Commissioner, less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which, in the judgment of the Commissioner, are generally comparable to the school district of such agency;

(B) such agency is, in the judgment of the Commissioner, making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(C) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year resided on Federal property; and

(D) the eligibility of such agency under State law for State aid with respect to the free public education of children residing on Federal property, and the amount of such aid, is determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State:

the Commissioner may increase the amount computed under paragraph (1) to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts; except that this paragraph shall in no case operate to increase the amount computed for any fiscal year under paragraph (1) for a local educational agency above the amount determined by the Commissioner to be the cost per pupil of providing a level of education equivalent to that maintained in such comparable school districts, multiplied by the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who resided on Federal property during such year, minus the amount of State aid which the Commissioner determines to be available with respect to such children for the year for which the computation is being made.

(5) The determinations whether a local educational agency has met the requirements for eligibility under paragraphs (2)(B) and 4(C) of this subsection for any fiscal year shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlement to any payments under this section to which it would be entitled had the estimate been accurate.

(d) The local contribution rate for a local educational agency (other than a local educational agency in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in a State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in a State in which there is only one local educational agency) for any fiscal year shall be computed by the Commissioner of Education, after consultation with the State educational agency and the local educational agency in the following manner: 81 Stat. 809.

81 Stat. 809. (1) he shall determine which school districts within the State are in his judgment generally comparable to the school districts of the agency for which the computation is being made; and

(2) he shall then divide (A) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making the computation, which the local educational agencies of such comparable school districts made from revenues derived from local sources, by (B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year.

The local contribution rate shall be an amount equal to the quotient obtained under clause (2) of this subsection. If, in the judgment of the Commissioner, the current expenditures in those school districts which he has selected under clause (1) 81 Stat. 809. are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school districts of the local educational agency for which the computation is being made a level of education equivalent to that maintained in such other districts, the Commissioner may increase the local contribution rate for such agency by such amount as he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. In no event shall the local contribution rate for any local educational agency in any State (other than Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands) for any fiscal year be less than (i) 50 per centum of the average per pupil expenditure in such State or (ii) 50 per centum of the average per pupil expenditure in the

United States (which for purposes of this sentence and the next sentence means the fifty States and the District of Columbia), but not to exceed the average per pupil expenditure in the State: *Provided,* That if, for the fiscal year ending June 30, 1959, the application of clause (ii) of this sentence results in a lower local contribution rate than resulted from the application of such clause during the fiscal year ending June 30, 1958, as such clause was then in effect, then such clause, as in effect during the fiscal year ending June 30, 1958, shall be in effect during the fiscal year ending June 30, 1959. For the purposes of the preceding sentence the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in the State, or in the United States, as the case may be plus any direct current expenditures by the States for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding fiscal year. The local contribution rate for any local educational agency in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in any State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in any State in which there is only one local educational agency, shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will, in his judgment, best effectuate the purposes of this title and most nearly approximate the policies and principles provided herein for determining local contribution rates in other States.

### Adjustment for Certain Decreases in Federal Activities

(e) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) or (b) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur,

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.[2]

## SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE

### Increases Hereafter Occurring

20 U.S.C. 239. 81 Stat 813.

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to July 1, 1970—

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such agency during the preceding fiscal year and the number of such children whose attendence during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance but is unable to secure sufficient funds to meet the increased educational costs involved.

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which the Commissioner determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance; and

(B) the amount which the Commissioner determines to be the current expenditures per child necessary to provide free public education to such additional children during such year, minus the amount which the Commissioner determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under this Act or funds from local sources necessary to provide free public education to other children).

81 Stat. 813.

For the next fiscal year (except where the determination under the preceding sentence has been made with respect to the fiscal year ending June 30, 1970) such agency shall be entitled to receive 50 per centum of such product reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, but not to exceed for such year the amount which the Commissioner determines to be necessary to enable such agency, with the State, local and other Federal funds (exclusive of funds available under title II) available to it for such purpose, to provide a level of education equivalent to that maintained in the school districts in such State which in his judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purposes of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlements to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by the Commissioner after considering the current expenditures per child in providing free public education in those school districts in the State which, in the judgment of the Commissioner, are generally comparable to the school district of the local educational agency for which the computation is being made.

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[2] By section 208 the amendments to section 3 shall be deemed to have been enacted prior to June 30, 1967, and shall be for fiscal years beginning thereafter.

### Increases Heretofore Occurring

(b) (*Subsection (b) has been executed*).

### Counting of Certain Children

(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year: *Provided*, That the Commissioner shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of the Commissioner, its election that such increase be counted for such purposes instead of for the purposes of section 3; and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 303.

### Adjustment for Certain Decreases in Federal Activities

(d) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur.

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occure, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

### Consultation With State and Local Authorities

(e) All determinations of the Commissioner under this section shall be made only after consultation with the State educational agency and the local educational agency.

## METHOD OF MAKING PAYMENTS

### Application

20 U.S.C. 240.

SEC. 5. (a) No local educational agency shall be entitled to any payment under section 2, 3, or 4 of this title for any fiscal year except upon application therefor, submitted through the State educational agency and filed in accordance with regulations of the Commissioner, which application gives adequate assurance that the local educational agency will submit such reports as the Commissioner may reasonably require to determine the amount to which such agency is entitled under this title.

### Payment

(b) The Commissioner shall, subject to the provisions of subsection (c), from time to time pay to each local educational agency, in advance or otherwise, the amount which he estimates such agency is entitled to receive under this title. Such estimates shall take into account the extent (if any) to which any previous estimate of the amount to be paid such agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it. Such payments shall be made through the disbursing facilities of the Department of the Treasury and prior to audit or settlement by the General Accounting Office. Sums appropriated pursuant to this title for any fiscal year shall remain available, for obligation and payments with respect to amounts due local educational agencies under this title for such year, until the close of the following fiscal year.

### ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

(c) If the funds appropriated for a fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies will be entitled to receive under this title for such year, the Commissioner shall, subject to any limitation contained in the Act appropriating such funds, allocate such funds, other than so much thereof as he estimates to be required for section 6, among sections 2, 3, and 4(a) in the proportion that the amount he estimates to be required under each such section bears to the total estimated to be required under all such sections. The amount thus allocated to any such section shall be available for payment of a percentage of the amount to which each local educational agency is entitled under such section (including in the case of section 3, any increases under subsection (c)(4) thereof), such percentgage to be equal to the percentage, which the amount thus allocated to such section is of the amount to which all such agencies are entitled under such section. In case the amount so allocated to a section for a fiscal year exceeds the total to which all local educational agencies are entitled under such sections for such year or in case additional funds become available for carrying out such sections, the excess, or such additional funds, as the case may be, shall be allocated by the Commissioner, among the sections for which previous allocations are inadequate, on the same basis as is provided above for the initial allocation.

### Adjustments for Reductions in State Aid

(d) The amount which a local educational agency in any State is otherwise entitled to receive under section 2, 3, or 4 for any fiscal year shall be reduced in the same proportion (if any) that the State has reduced for that year its aggregate expenditures (from non-Federal sources) per pupil for current expenditure purposes for free public education (as determined pursuant to regulations of the Commissioner) below the level of such expenditures per pupil in the second preceding fiscal year. The Commissioner may waive or reduce this reduction whenever in his judgment exceptional circumstances exist which would make its application inequitable and would defeat the purpose of this title.

### CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property— 20 U.S.C. 241.

(1) if no tax revenues of the States or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children.

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq).* In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(b) In any case in which the Commissioner makes such arrangements for the provision of free public education in facilities situated on Federal property, he may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who, during some portion of the fiscal year in which such education is provided, was employed on such property, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) in any case where in the judgment of the Commissioner the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such children reside, or the State educational agency, or both, will make reasonable tuition payments to the Commissioner for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and the Commissioner. Any amounts paid to the Commissioner by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

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*Title 5 of the United States Code has been recodified and enacted into positive law by P.L. 89-554.

(c) In any case in which the Commissioner makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, and (2) that no local educational agency is able to provide suitable free public education for such children.

(d) The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under this section only for the provision of education in facilities of a local educational agency or in facilities stituated on Federal property.

(e) To the maximum extent practicable, the Commissioner shall limit the total payments made pursuant to any such arrangement for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the per pupil cost of free public education provided for children in comparable communities in the State. The Commissioner shall limit the total payments made pursuant to any such arrangement for educating children outside the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount he determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

(f) If no tax revenues of a State or of any political subdivision of the State may be expanded for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of sections 3 and 4 of this Act. If a local educational agency refuses for any other reason to provide in any fiscal year free public education for the children who reside on Federal property which is within the school district of that agency or which, in the determination of the Commissioner, would be within that school district if it were not Federal property, there shall be deducted from any amount to which the local educational agency is otherwise entitled for that year under section 3 or 4 an amount equal to (1) the amount (if any) by which the cost to the Commissioner of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children.[3]

(g) In the administration of this section, the Commissioner shall not exercise any direction, supervision, or control over the personnel, curriculum, or program of instruction of any school or school system.

### ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

20 U.S.C. 241-1.
81 Stat. 811.

SEC. 7. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to July 1, 1970, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

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[3] By section 202 of Public Law 90-247 the provisions of section 6(f), as added by section 204 of Public Law 89-750, shall be effective only with respect to fiscal years beginning after June 30, 1969.

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or simular purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate: *Provided*, That nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction,

the Commissioner may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subsection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

(b) In addition to and apart from the funds provided under subsection (a), the Commissioner is authorized to provide to such agency an amount which he determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

(c) There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 655)) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this Act, such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection whem made.

(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications.

(e) Amounts paid by the Commissioner to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States."

## TITLE II—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES*

### Part A—Basic Grants

#### DECLARATION OF POLICY

20 U.S.C. 241a. Sec. 101. In recognition of the special educational needs of children of low-income families and the impact that concen-

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*Notes.—By Sec. 116 of Public Law 89–750 this title may be cited as "Title I of the Elementary and Secondary Education Act of 1965", see Sec. 214 of this title, and by sec. 110 of P.L. 90–247. The section numbers have been changed from 201 et seq. to 101 et seq.

***Section 111 of Public Law 90–247 provides for a study of the impact of children living in public housing as follows:*

"The Secretary of Health, Education, and Welfare shall make a study of the burden imposed on a local educational agency by the presence of low-rent public housing within the boundaries of its school district. The Secretary shall submit a report on the results of his study to the Senate and House of Representatives on or before May 15, 1968. Such report shall include such recommendations for legislation as the Secretary deems appropriate."

****Section 113 of Public Law 90–247 provides for a study of the data used to establish entitlements, as follows:*

"The Commissioner of Education and the Secretary of Commerce, acting together, shall prepare and submit to the Senate and House of Representatives, on or before May 1, 1968, a report setting forth a method of determining the information necessary to establish entitlements within each of the several States under title I of the Elementary and Secondary Education Act of 1965 on the basis of data later than 1960. Such report shall include recommendations for legislation necessary to permit the adoption of such method."

trations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in this part) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

### DURATION OF ASSISTANCE

SEC. 102. The Commissioner shall, in accordance with the provisions of this part, make payments to State educational agencies for the period beginning July 1, 1965, and ending June 30, 1970. 20 U.S.C. 241b. 81 Stat. 813.

### GRANTS—AMOUNT AND ELIGIBILITY

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 107(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition he shall allot from such amount to the Secretary of the Interior the amount necessary to make payments pursuant to subparagraph (B) of this paragraph, and for the fiscal year ending June 30, 1968, and the fiscal year ending June 30, 1969, the amount necessary to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive and the terms upon which payment shall be made to the Department of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title. 20 U.S.C. 241c. 81 Stat. 783

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indians children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligi-

ble to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States, multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) (b) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clause (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

42 U.S.C. 601.
81 Stat. 783.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency for the fiscal year ending June 30, 1967, is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purposes of this part.

(4) For purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(5) In the case of a State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), the maximum grant

which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by that State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

(6) A state educational agency which has submitted and had approved an application under section 105(c) for any fiscal year shall be entitled to receive a grant for that year under this part for establishing or improving programs for migratory children of migratory agricultural workers. The maximum total of grants which shall be available for use in any State for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State, or if greater, in the United States multiplied by (A) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (B) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations.

(7) In the case of a State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children, the maximum grant which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in that State, or if greater, in the United States multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

(b) A local educational agency shall be eligible for a grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (3C) of the first sentence of paragraph (2) of subsection (a):

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends the eligibility requirement with respect to the number of children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $2,000 for the fiscal year ending June 30, 1966, and the fiscal year ending June 30, 1967. Except as otherwise provided in section 108. For the fiscal years ending June 30, 1968, June 30, 1969, and June 30, 1970, they shall be 50 per centum and $3,000, respectively. 81 Stat. 785.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year. When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of such children in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

24 U.S.C. 601.

81 Stat. 784.

81 Stat. 784.

(e) For purposes of this section, the average per pupil expenditure in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.[1]

*Sec. 104. By section 108(a) of Public Law 89-750, section 104 has been deleted.* 80 Stat. 1195.

### APPLICATION

**Sec.** 105. (a) A local educational agency, may receive a grant under this part for any fiscal year only upon application therefor approved by the appropriate State educational agency upon its determination (consistent with such basic criteria as the Commissioner may establish)— 20 U.S.C. 241e.

(1) that payments under this part will be used for programs and projects (including the acquisition of equipment, and where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involved an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the maximum amount determined for that agency for that year pursuant to section 103 or $2,000, whichever is greater.

(2) that, to the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency has made provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate;

(3) that the local educational agency has provided satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom shall be

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[1] By section 104(c) of Public Law 90-247, the amendments made to section 103 by section 104 of Public Law 90-247, including the addition of subsection (e) to section 103, shall apply with respect to fiscal years ending on or after June 30, 1969.

in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

(4) in the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 131 will be complied with on all such construction projects;

(5) in the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this part and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this part, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this part;

(6) that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

(7) that the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information, as may be reasonably necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of students participating in programs carried out under this part, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) in the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this part shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons:

(9) that effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(10) in the case of a project for the construction of school facilities, that, in developing plans for such facilities, due considerartion has been given to excellence of architeture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project); and

"(11) in the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together."

(b) The State educational agency shall not finally disapprove in whole or in part any application for funds under this part without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing. 81 Stat. 784.

(c)(1) A State educational agency or a combination of such agencies may apply for a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers. The Commissioner may approve such an application only upon his determination—

(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964; and 42 U.S.C. 2861.

(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (2) through (8) of subsection (a), and of section 106(a).

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this subsection in one or more States, and for this purpose he may set aside on an equitable basis and use all or part of the maximum total of grants available for such State or States.

(3) For purposes of this subsection, with the concurrence of his parents, a migratory child of a migratory agricultural worker shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. 81 Stat. 787.

### ASSURANCES FROM STATES

20 U.S.C. 241f. SEC. 106. (a) Any State desiring to participate under this part (except with respect to the program described in section 105(c) relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

(1) that, except as provided in section 107(b), payments under this part will be used only for programs and projects which have been approved by the State educational agency pursuant to section 105(a) and which meet the application requirements of that section and of section 103(a)(5) and that such agency will in all other respects comply with the provisions of this part, including the enforcement of any obligations imposed upon a local educational agency under section 105(a);

(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this part; and

(3) that the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 105(a)(6)) evaluating the effectiveness of payments under this part and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this part (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

### PAYMENT

20 U.S.C. 241g SEC. 107. (a)(1) The Commission shall, subject to the provisions of section 108, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this part. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this part (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 105(a) the amount for which such application has been approved, except that this amount shall not exceed the maximum amount determined for that agency pursuant to section 103.

(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part (including technical assistance for the measurements and evaluations required by section 105(a)(6)), except that the total of such payments in any fiscal year shall not exceed—

(1) 1 per centum of the total maximum grants for State and local educational agencies of the State as determined for that year pursuant to sections 103 and 108, or

(2) $150,000, or $25,000 in the case of Puerto Rico, Wake Island, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, 81 Stat. 783

whichever is the greater.

(c)(1) No payments shall be made under this part for any fiscal year to a State which has taken into consideration payments under this part in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this part to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

### ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

20 U.S.C. 241h.
81 Stat. 785.

SEC. 103. If the sums appropriated for any fiscal year for making the payments provided in this part are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this part for such year—

(1) the amount available for each grant to a State agency eligible for a grant under paragraph (5), (6), or (7) of section 103(a) shall be equal to the maximum grant as computed under such paragraph;

(2) allocations shall be made to local educational agencies on the basis of computations, in accordance with section 203(a)(2) as reduced ratably, except that—

(A) until appropriations are sufficient to satisfy all maximum grants as computed by using a low-income factor of $2,000, the low-income factor (referred to in section 103(c)) for such year shall be $2,000; and

(B) the aggregate amount available for grants to local educational agencies within each State shall be not less than the aggregate amount allocated to local educational agencies within such State for the fiscal year ending June 30, 1967, until the total appropriations for that fiscal year exceed $1,500,000,000 for part A of title I;

(3) the amount available for payments to each State educational agency for the purposes of section 107(b) shall be equal to 1 per centum of the aggregate amounts available within that State pursuant to paragraphs (1) and (2), except that no State shall receive less than the minimum amount provided for in section 107(b)(2)

In case additional funds become available for making payments under this part for that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this part, the Commissioner may set dates by which (1) State educational agencies must certify to him the amount for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 103(a)(6) must file applications. If the maximum grant a local educational agency or an agency referred to in section 103(a)(6) would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this part, in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this part in such manner as the respective State educational agencies shall prescribe.

## Part B—Incentive Grants

### SPECIAL INCENTIVE GRANTS

81 Stat. 786

Sec. 121. (a) A special incentive grant shall be made for any fiscal year beginning after June 30, 1968, to the State educational agency of each State which has an effort index for the preceding fiscal year that exceeds the national effort index for such year. The amount of such special incentive grant shall be determined by multiplying the amount of $1 for each 0.01 per centum by which such State's effort index for such year exceeds the national effort index for such year times the aggregate number of children counted for purposes of entitling local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 203(a) of this Act. If the sum of the amounts so determined for all the States exceeds the amount appropriated pursuant to this part for any fiscal year, such amounts shall be ratably reduced. No State agency shall receive in any year a grant pursuant to this section which is in excess of 15 per centum of the total amount appropriated for such year for the purpose of this section. The State educational agency shall distribute such grant to those local educational agencies in such State which are in the greatest need of additional funds, for the purposes set forth in section 205(a), and amounts so distributed shall be used by such agencies in accordance with the provisions governing the use of grants to such agencies under this title.

(b) Grants pursuant to this section shall be made upon application containing such information as the Commissioner may require for the purpose of this section. The Commissioner shall not finally disapprove such an application except after reasonable notice and opportunity for a hearing to the State educational agency.

(c) For the purpose of this section the term 'State effort index' means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term 'national effort index' means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States.

(d) For the purpose of making grants under this part there are authorized to be appropriated not in excess of $50,000,000 each for the fiscal year ending June 30, 1969, and the succeeding fiscal year."

## Part C.—General Provisions

### LABOR STANDARDS

Sec. 131. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 913) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c). 20 U.S.C. 241i.

### WITHHOLDING

20 U.S.C. 241j. **Sec. 132. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 105(c), 106(b) or 121(b), the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.**

### JUDICIAL REVIEW

20 U.S.C. 241k. **Sec. 133. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 105(c), 106(b) or 121(b), or with his final action under section 132, such State may, within sixty days after notice of such action, file with the United States court appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition whall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.**

**(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the futher proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.**

**(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.**

### NATIONAL ADVISORY COUNCIL

20 U.S.C. 241l. **Sec. 134 (a) The President shall, within ninety days after the enactment of this part, appoint a National Advisory Council on the Education of Disadvantaged Children for the purpose of reviewing the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, and making recommendations for the improvement of this part and its administra-**

tion and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of twelve persons. When requested by the President, the Secretary of Health, Education, and Welfare shall engage such technical assistance as may be required to carry out the functions of the Council, and the Secretary shall make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than January 31 of each calendar year beginning after the enactment of this part. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report.

(d) Members of the Council who are not regular full-time employees of the United States shall, while serving on business of the Council be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703) for persons in Government service employed intermittently.

(e) In its annual report to the President and the Congress to be made not later than January 31, 1969, the Council shall report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. 81 Stat. 788.

TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 135. (a) Not withstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan. 20 U.S.C. 241m. 42 U.S.C. 602.

(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of the Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

### SHORT TITLE

20 U.S.C. 241a note.

SEC. 136. This title may be cited as 'Title I of the Elementary and Secondary Education Act of 1965'.

## TITLE III—GENERAL

### ADMINISTRATION

20 U.S.C. 242.

SEC. 301. (a) In the administration of this Act, no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the personnel, curriculum, or program of instruction of any school or school system of any local or State educational agency, or require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

### USE OF OTHER FEDERAL AGENCIES: TRANSFER AND AVAILABILITY OF APPROPRIATIONS

20 U.S.C. 243.

SEC. 302. (a) In carrying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement. The Commissioner is authorized to delegate to any officer or employee of the Office of Education any of his functions under this Act except the making of regulations.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

(c) Such portion of the appropriation of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the Bureau of the Budget determines to be available for the same purposes as title I, shall, except to the extent necessary to carry out during such year contracts made prior to the enactment of title I, be transferred to the Commissioner for use by him in carrying out such purposes.

(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operation of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C., sec. 452).

### DEFINITIONS

SEC. 303. For the purposes of this Act— 20 U.S.C. 244.

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia.[5] Notwithstanding the foregoing provisions of this paragraph, such term does not include, (A) any real property used for a labor supply center, labor home,

81 Stat. 806.

81 Stat. 806.

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[5] By section 208 of Public Law 90-247 the amendments made to section 303(1) shall be deemed to have been enacted prior to June 30, 1967, and shall be effective for fiscal years beginning thereafter.

or labor camp or migratory farmworkers, (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 671 of the Seventy-sixth Congress), or any law amendatory of or supplementary to any of such Acts.

(2) The term "child", except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person in loco parentis.

(4) The term "free public education" means education which is provided at public expenses, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the Elementary and Secondary Education Act of 1965.

40 U.S.C. 821-848.

(6)(A) For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2) 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provisions of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "sec-

ondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education, provided beyond grade 12.

*Title IV of the Elementary and Secondary Education Amendments of 1967 makes provision, applicable to this Act, for adequate leadtime and for planning and evaluation of programs in elementary and secondary education. Such provisions are set out at the end of the Elementary and Secondary Education Act of 1965.*

### Legislative History

FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

(P.L. 874)

*81st Congress*—H.R. 7940: H. Rept. 2287; amended and passed House, p. 10111, July 13, 1950. S. Rept. 2458: amended and passed Senate, p. 14735, Sept. 13, 1950. Conference report (H. Rept. 3109): Senate agrees to, p. 15020, Sept. 18, 1950. House agrees to, p. 15302, Sept. 20, 1950. Approved, p. 15790, Sept. 30, 1950.

*83d Congress*—P.L. 732 (amends P.L. 874). S. 3629; S. Rept. 2204, p. 13003; amended and passed by Senate, p. 14059; Aug. 11, 1954. House passed, p. 14663, Aug. 16, 1954. Approved, p. 15838, Aug. 31, 1954.

*83d Congress*—P.L. 248 (amends P.L. 874). H.R. 6078; H. Rept. 703, p. 8043; amended and passed House, p. 8826, July 14, 1953. S. Rept. 714; Amended and passed Senate, p. 10796, Aug. 1, 1953. Conference report (H. Rept. 1092); House agrees, p. 11114, Aug. 3, 1953. Senate agrees, p. 11056, Aug. 3, 1953. Approved, p. 11160, Aug. 8, 1953.

*84th Congress*—P.L. 382 (amends P.L. 815 and 874). H.R. 7245; H. Rept. 1141, p. 11596; amended and passed House, p. 12408, July 30, 1955. Passed Senate, p. 12296, July 30, 1955. Approved, p. 13081, Aug. 12, 1955.

*85th Congress*—P.L. 620 (amends P.L. 815 and 874). H.R. 11378; H. Rept. 1532; amended and passed House, p. 7125, Apr. 23, 1958. S. Rept. 1929; Amended and passed Senate, p. 15245, July 28, 1958. House concurs in Senate amendment; p. 15444, July 29, 1958. Approved, p. 18234, Aug. 12, 1958.

*88th Congress*—P.L. 88–210, pt. C. (amends P.L. 815 and 874). H.R. 4955; H. Rept. 393, p. 11065; amended and passed House, p. 14297, Aug. 6, 1963. S. Rept. 553; amended and passed Senate, p. 18999, Oct. 8, 1963. Conference report (H. Rept. 1025); House agrees, p. 24921, Dec. 12, 1963. Senate agrees, p. 24486, Dec. 13, 1963. Approved Dec. 18, 1963.

*88th Congress*—P.L. 88–665 (amends P.L. 815 by sec. 1101, amends P.L. 874 by sec. 1102). S. 3060; S. Rept. 1275; passed Senate Aug. 1, 1964, p. 17116 (daily edition of Congressional Record). House amended and passed Aug. 14, 1964, p. 19075 (daily edition). Conference report (H. Rept. 1916), Sept. 30, 1964; House agrees Oct. 1, 1964, p. 22651. Senate agrees Oct. 2, 1964, p. 22747. Approved, Oct 16, 1964.

*89th Congress*—P.L. 89–10, H. Rept. 143 (Committee on Education and Labor). S. Rept. 146 (Committee on Labor and Public Welfare). Congressional Record, vol. 111 (1965): Mar. 24–25: Considered in House, Mar. 26: Considered and passed House, Apr. 6–8: Considered in Senate, Apr. 9: Considered and passed Senate.

*89th Congress*—P.L. 89–77, H. Rept. 164 (Committee on Education and Labor). S. Rept. 311 (Committee on Labor and Public Welfare). Congressional Record, vol. 111 (1965): Mar. 15: Considered and passed House. June 11: Considered and passed Senate, amended. July 6: House concurred in Senate amendment.

*89th Congress*—P.L. 89–313, H. Rept. 587 (Committee on Education and Labor). S. Rept. 783 (Committee on Labor and Public Welfare). Congressional Record, vol. 111 (1965): Aug. 30: Considered and passed House. Oct. 1: Considered and passed Senate, amended. Oct. 13: House concurred in Senate amendments with an amendment. Oct. 15: Senate concurred in House amendment.

*89th Congress*—P.L. 89-750, H. Rept. 1814, 1814 pt. II (Committee on Education and Labor) and H. Rept. 2309 (Committee of Conference). S. Rept. 1674 accompanying S. 3046 (Committee on Labor and Public Welfare). Congressional Record, vol. 112 (1966): Oct. 5: Considered in House. Oct. 6: Considered and passed House. Oct. 5, 6: S. 3046 considered and passed Senate. Oct. 7: Considered and passed Senate, amended, in lieu of S. 3046. Oct. 19: Senate agreed to conference report. Oct. 20: House agrees to conference report.

*90th Congress*—P.L. 90-246.
H.R. 7819:
  House Reports: No. 188 (Committee on Education and Labor) and No. 1049 (Committee of Conference).
  Senate Report No. 726 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 113 (1967):
    May 22-24: Considered and passed House.
    Dec. 1, 4-8, 11: Considered and passed Senate amended.
    Dec. 15: House and Senate agreed to conference report.

# 3. SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES, AS AMENDED THROUGH THE 90th CONGRESS, FIRST SESSION*

**Enacted on September 23, 1950, as P.L. 815, 81st Congress (64 Stat. 967), 20 U.S.C. 631. Amended on August 8, 1953, by P.L. 246, 83d Congress (67 Stat. 522); on May 11. 1954, by P.L. 357, 83d Congress (68 Stat. 87); on August 31, 1954, by P.L. 731, 83d Congress (68 Stat. 1005);on August 12, 1955, by P.L. 382, 84th Congress (69 Stat. 713); on August 1, 1956, by P.L. 896, 84th Congress (70 Stat. 908); on August 3, 1956, by P.L. 949, 84th Congress (70 Stat. 968); on August 21, 1957, by P.L. 85-161 (71 Stat. 403); on September 2, 1957, by P.L. 85-267 (71 Stat. 593); on August 12, 1958, by P.L. 85-620 (72 Stat. 548); on June 25, 1959, by P.L. 86-70 (73 Stat. 141); on May 6, 1960, by P.L. 86-449 (74 Stat. 86); on July 12, 1960, by P.L. 86-624 (74 Stat. 411); on October 3, 1961, by P.L. 87-344 (75 Stat. 759); on December 18, 1963, by P.L. 88-210 (77 Stat. 403); and on October 16, 1964, by P.L. 88-665 (78 Stat. 1100); on July 12, 1965, by P.L. 89-77 (79 Stat. 243); on November 1, 1965, by P.L. 89-313 (79 Stat. 1158); on November 3, 1966, by P.L. 89-750 (80 Stat. 1191); and on January 2, 1968, by P.L. 90-247 (81 Stat. 806).**

AN ACT Relating to the construction of school facilities in areas affected by Federal activities and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### PURPOSE AND APPROPRIATION

SECTION 1. The purpose of this Act is to provide assistance for the construction of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each fiscal year thereafter, such sums as the Congress may determine to be necessary for such purpose. Sums so appropriated, other than sums appropriated for administration, shall remain available until expended. 20 U.S.C 631.

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*NOTES.—*Section 111(f) of Public Law 89-750 provides for coordination of the programs of Acts amended by Public Law 89-750 as follows:*

"In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate such programs on the Federal level with the programs being administered by such other departments and agencies and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964."

* * *Section 2 of Public Law 90-247 sets guidelines for the administration of programs of Acts amended by Public Law 90-247 as follows:*

"Rules, regulations guidelines, or other published interpretations or oders issued by the Department of Health, Education, and Welfare or the United States Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such pro-

### PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

20 U.S.C. 632.

SEC. 2. For each fiscal year the Commissioner shall determine the portion of the funds appropriated pursuant to section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

### ESTABLISHMENT OF PRIORITIES

20 U.S.C. 633.

81 Stat. 813.

SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) shall be not later than June 30, 1970. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b) (2) (C)) shall be considered applications for purposes of the preceding sentence.

### FEDERAL SHARE FOR ANY PROJECT

20 U.S.C. 634.

SEC. 4. Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the second year following the increase period and who will otherwise be without such fa-

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vision is based. All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States."

* * * *Section 182 of Public Law 89–750 as amended by section 112 of Public Law 90–247 provides for compliance with the Civil Rights Act of 1964 as follows:*

20 U.S.C. 821 nt.
20 U.S.C. 236.
20 U.S.C. 631.
20 U.S.C. 331 nt.
42 U.S.C. 2000d–2000d–4.
81 Stat. 787.

"The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964; *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–352), compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned."

cilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (1) are built or under contract as of the date on which the Commissioner set, under section 3, the earliest date on or before which the application for such project was filed, or (2) as of the date the application for such project is approved, are included in a project the application for which has been approved under this Act.

### LIMITATION ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following: 20 U.S.C. 635.

(1) the estimated increase, since the base year, in the number of children residing on Federal property, (A) who so reside with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), or (B) who had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949), multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and 37 U.S.C. 101.

(2) the estimated increase, since the base year, in the number of (A) children residing on Federal property, or (B) residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), or (C) who had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and 37 U.S.C. 101.

(3) the estimated increase, since the base year, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 15, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal property or

residing with a parent employed on Federal property; and

(4) for the fiscal year ending June 30, 1967, the estimated number of children, without regard to the limitation in subsection (d), whose membership in the schools of such local educational agency resulted from a change in residence from land transferred to Mexico as part of a relocation of an international boundary of the United States, multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year; but if, by reason of any other provision of law, this clause is not considered in computing the maximum payments a local educational agency may receive for the fiscal year ending June 30, 1967, the additional amount such agency would have been entitled to receive shall be added to such agency's entitlement for the first fiscal year for which funds appropriated to carry out this Act may be used for such purpose.[1]

81 Stat. 809.

(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have paragraph (2) apply to a child instead of paragraph (1), the determination of the maximum amount for such agency under subsection (a) shall be made without regard to such election.

(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d), is at least twenty and is equal to at least 6 per centum in the case of paragraph (1) or (2), and 10 per centum in the case of paragraph (3), of the number of all children who were in the average daily membership of the schools of such agency during the base year, and unless, in the case of paragraph (3), the construction of additional minimum school facilities for the number of children in such increase will, in the judgment of the Commissioner, impose an undue financial burden on the taxing and borrowing authority of such agency: *Provided*, That children residing on any housing property which, prior to sale or transfer by the United States, was considered to be Federal property for the purposes of this Act, shall not be considered as having been federally connected in determining the eligibility of the local educational agency under this subsection.

(d) If (1) the estimated number of non-federally connected children who will be in the membership of the schools of a local educational agency at the close of the increase period is less than (2) 106 per centum of the number of such children who were in the average daily membership of such agency during the base year, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as non-federally connected children except children whose membership in the base year and increase period was compared in computing an increase which meets the requirements of subsection (c).

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[1] By section 208 of Public Law 90-247 the language beginning after the semicolon in the last sentence of section 5(a)(4) shall be deemed to have been enacted prior to June 30, 1967, and shall be effective for fiscal years beginning thereafter.

(e) Notwithstanding the provisions of subsections (c) (d) and (f) of this section, whenever and to the extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, the Commissioner may do any one or more of the following: (1) he may waive or reduce the minimum number requirement or any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence; or (3) he may waive or reduce the requirement contained in subsection (f).[2] 81 Stat. 809.

(f) In determining under this section the total of the payments which may be made to a local educational agency on the basis of any application, the total number of children counted for purposes of paragraph (1), (2), or (3), as the case may be, of subsection (a) may not exceed—

(1) the number of children whose membership at the close of the increase period for the application is compared with membership in the base period for purposes of that paragraph, minus

(2) the number of such children whose membership at the close of the increase period was compared with membership in the base year for purposes of such paragraph under the last previous application, if any, of the agency on the basis of which any payment has been or may be made to that agency.

### APPLICATIONS

SEC. 6. (a) No payment may be made to any local educational agency under this Act except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him. 20 U.S.C. 636.

(b)(1) Each application by a local educational agency shall set forth the project for the construction of school facilities for such agency with respect to which it is filed, and shall contain or be supported by—

(A) a description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by the Commissioner;

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[2] By section 208 of Public Law 90-247 the addition of alternative number (3) to section 5(e) shall be deemed to have been enacted prior to June 30, 1967, and shall be effective for fiscal years beginning thereafter.

(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than twenty years after the completion of the construction;

(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

(D) assurance that such agency will cause work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence;

(E) assurance that the rates of pay for laborers and mechanics engaged in the construction will be not less than the prevailing local wage rates for similar work as determined in accordance with Public Law Numbered 403 of the Seventy-fourth Congress, approved August 30, 1935, as amended;

(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district; and

(G) assurance that such agency will from time to time prior to the completion of the project submit such reports relating to the project as the Commissioner may reasonably require.

(2) The Commissioner shall approve any application if he finds (A) that the requirements of paragraph (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 4 and 5, (B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities, and (C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 3, have a higher priority: *Provided*, That the Commissioner may approve any application for payments under this Act at any time after it is filed and before any priority is established with respect thereto under section 3 if he determines that—

(i) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 3 which would qualify it for payments under this Act when such priorities are established, and

(ii) the number of children in the increase under section 5(a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

(c) No application under this Act shall be disapproved in whole or in part until the Commissioner of Education has afforded the local educational agency reasonable notice and opportunity for hearing.

### PAYMENTS

SEC. 7. (a) Upon approving the application of any local educational agency under section 6, the Commissioner of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Commissioner of Education and the construction contract has been entered into, the Commissioner shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project. 20 U.S.C. 637.

(b) Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

### ADDITIONAL PAYMENTS

SEC. 8. Not to exceed 10 per centum of the sums appropriated pursuant to this Act for any fiscal year (exclusive of any sums appropriated for administration) may be used by the Commissioner, under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this Act but for the agencies inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the projects covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational agencies whose need for additional aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments. 20 U.S.C. 638.

### WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

SEC. 9. Notwithstanding the preceding provisions of this Act, whenever the Commissioner determines that the membership of some or all of the children, who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Commissioner may make available to such agency such temporary school facilities as may be necessary 20 U.S.C. 639.

to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which he estimates would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency, of constructing minimum school facilities for such children. The Commissioner may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this section (or section 309 of this Act as in effect January 1, 1958); any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

### CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

20 U.S.C. 640. SEC. 10. (a) In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Commissioner makes arrangements under this section for constructing or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Commissioner determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this Act, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate

State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commissioner, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

(b) When the Commissioner determines it is on the interest of the Federal government to do so, he may transfer to the appropriate local educational agency all the right, title, and interest of the United States in and to any facilities provided under this section (or sections 204 or 310 of this Act as in effect January 1, 1958). Any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

(c) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 5 of this Act.[3]

## WITHHOLDING OF PAYMENTS

SEC. 11. (a) Whenever the Commissioner of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, the Commissioner may forthwith notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended. 20 U.S.C. 641.

(b) The final refusal of the Commissioner to approve part or all of any application under this Act, and the Commissioner's final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

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[3] By section 202 of Public Law 90-247 the addition of subsection (c) to section 10, made by section 229 of Public Law 89-750, shall be effective only with respect to fiscal years beginning after June 30, 1969.

### ADMINISTRATION

20 U.S.C. 642.

SEC. 12. (a) In the administration of this Act, no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the personnel, curriculum, or program of instruction of any school or school system of any local or State educational agency.

(b) The Commissioner of Education shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

(d) With respect to compliance with and enforcement of the prevailing wage provisions of section 6(b)(1)(E), the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by the agencies administering such provisions, and shall cause to be made by the Department of Labor such investigations as he deems desirable.

### USE OF OTHER FEDERAL AGENCIES: TRANSFER AND AVAILABILITY OF APPROPRIATIONS

20 U.S.C. 643.

SEC. 13. (a) The Commissioner may delegate to any officer or employee of the Office of Education any of his functions under this Act, except the making of regulations. In carrying out his functions under this Act, the Commissioner of education may also utilize the facilities and services of any other Federal department or agency and may delegate the performance of any of his functions, except the making of regulations, to any officer or employee of any other Federal department or agency. The Commissioner of Education shall exercise the authority contained in the preceding sentence whenever such exercise will avoid the creation within the Office of Education of a staff and facilities which duplicate existing available staffs and facilities. Any such utilization or delegation shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement. Any delegation of functions or authority authorized under this section will not relieve the Commissioner of the responsibility placed on him by this Act.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities, shall to the maximum extent practicable, comply with requests of the Commissioner for information he may require carrying out the purpose of this Act.

(c) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purpose as this Act; except that nothing in this subsection shall affect the availability of appropriations authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children or appropriations (1) for the construction of school facilities in Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaska Public Works Act, approved August 24, 1949.

## SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS

SEC. 14. (a) If the Commissioner determines with respect to any local educational agency that— 20 U.S.C. 644.

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100; 81 Stat. 807. 81 Stat. 807.

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities; 81 Stat. 807.

(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose; and

(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools, 81 Stat. 807.

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Com- 81 Stat. 807.

missioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) but subject to the other provisions of this subsection and subsection (d)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1). 81 Stat. 807.

(b) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds one hundred; and

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

he may, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest, provide the additional assistance necessary to enable such agency to provide the minimum school facilities required for free public education of children in the membership of the schools of such agency who reside on Indian lands; but such additional assistance may not exceed the portion of the cost of constructing such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (d) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection 'Indian lands' means

Indian reservations or other real property referred to in the second sentence of section 15(1).[4]

(c) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated other than amounts appropriated for administration, shall remain available until expended.

(d) No payment may be made to any local educational agency under subsection (a) or (b) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. No payment may be made under subsection (a) or (b) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with over-all State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(e) Amounts paid by the Commissioner to local educational agencies under subsection (a) or (b) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with the Commissioner under this section, and may be paid in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(f) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to determinations made under this section.

## DEFINITIONS

SEC. 15. For the purposes of this Act— 20 U.S.C. 645.

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or political subdivision of a State or by the District of Columbia. Except 81 Stat. 806. for the purposes of section 10, such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation

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[4] By section 208 of Public Law 90-247, the amendments made to section 14(a) and the insertion of a new section 14(b) shall be deemed to have been enacted prior to June 30, 1967, and shall be effective for fiscal years beginning thereafter.

imposed by the United States, and (B) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia.[5] Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers, (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 671, Seventy-sixth Congress) or any law amendatory of or supplementary to any of such Acts. 81 Stat. 806.

(2) The term "child" means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The membership of schools shall be determined in accordance with State law or in the absence of State law governing such a determination, in accordance with regulations of the Commissioner; except that, notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the membership of such child, shall be held and considered—

(A) if the two local educational agencies concerned so agree, and if such agreement is approved by the Commissioner, as membership of a school of the local educational agency receiving such tuition payment;

(B) in the absence of any such approved agreement, as membership of a school of the local educational agency so making or contracting to make such tuition payment.

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[5] By section 208 of Public Law 90-247 the amendments made to section 15(1) shall be deemed to have been enacted prior to June 30, 1967, and shall be effective for fiscal years beginning thereafter.

In any determination of membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.

(6) the average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Commissioner of Education on the basis of the contract cost per square foot under contracts for the construction of school facilities (exclusive of costs of site improvements, equipment, and architectural, engineering and legal fees) entered into in the State for the second year of the four year increase period designated in the application, increased by a percentage estimated by the Commissioner to represent additional costs for site improvements, equipment, and architectural, engineering, and legal fees, and multiplied by a factor estimated by the Commissioner to represent the area needed per pupil in minimum school facilities. If the Commissioner finds that the information available for the State concerned for such preceding fiscal year is inadequate or not sufficiently representative, he shall determine such costs on the basis of such information as he has available and after consultation with the State educational agency. The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Commissioner, after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as he may obtain.

(7) Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment, shall be made as of the time of the approval of the application for which made, and shall be made on the basis of the best information available at the time of such approval.

(8) The terms "construct", "constructing", and "construction" include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(9) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public. Except as used in sections 9 and 10, such term does not include interests in land and off-site improvements.

(10) Whether or not school facilities are minimum school facilities shall be determined by the Commissioner, after consultation with the State and local educational agencies, in accordance with regulations prescribed by him. Such regulations shall (A) require the local educational agency concerned to give due consideration to excellence of architecture and design, (B) provide that no facility shall be disqualified as a minimum school facility because of the inclusion of works of art in the

plans therefor if the cost of such works of art does not exceed 1 per centum of the cost of the project, and (C) require compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this Act shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(11) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education or which has responsibility for the provision of such facilities.

(12) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(13) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, or Wake Island.

(14) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

81 Stat. 813.

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year 1965–1966; and

(16) The term "increase period" means the period of four consecutive regular school years immediately following such base year.

20 U.S.C. 646.
81 Stat. 810.

## SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1) (A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to July 1, 1970, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance on such school facilities, and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3) (B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 7(a)(4) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), with respect

to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate,

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this Act, and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. In all cases determined pursuant to clause (1)(B) of this subsection, and in any other case deemed appropriate by the Commissioner, such assistance shall be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.

(*b*) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this Act such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(d) Amounts paid by the Commissioner to local educational agencies under subsection (a) may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(e) None of the provisions of sections 1 to 10, both inclusive, other than sections 6(b)(1), shall apply with respect to this section.

### SPECIAL BASE CLOSING PROVISION

SEC. 17. In determining the payment to be made to a local educational agency under this Act the Commissioner shall disregard the announcement, made November 19, 1964, of a decrease in or cessation of Federal activities in certain areas, and shall carry out such Act as if such announcement had not been made. 20 U.S.C. 647.

### Legislative History

### SCHOOL CONSTRUCTION IN FEDERALLY AFFECTED AREAS, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

(P.L. 815)

*81st Congress*—S. 2317: S. Rept. 948, p. 11885. Amended and passed Senate, p. 14727, Oct. 17, 1949. H. Rept. 2810; amended and passed House, p. 13056, Aug. 22, 1950. Conference report (H. Rept. 3064): Senate agrees, p. 14276, Sept. 7, 1950. House agrees, p. 14948, Sept. 15, 1950. Approved, p. 15771, Sept. 23, 1950.

*83d Congress*—P.L. 246 (amends P.L. 815). H.R. 6049: H. Rept. 702, p. 8043; passed House, p. 8261, July 8, 1953. S. Rept. 713; amended and passed Senate, p. 10793, Aug. 1, 1953. Conference report (H. Rept. 1091); House agrees to, p. 11110, Aug. 3, 1953. Senate agrees to, p. 11055, Aug. 3, 1953. Approved, p. 11160, Aug. 8, 1953.

*83d Congress*—P.L. 731 (amends P.L. 815). S. 3628: S. Rept. 2203, p. 13003; amended and passed Senate, p. 14058, Aug. 11, 1954. House amended and passed, p. 14665, Aug. 16, 1954. Senate concurs in House amendment, p. 14983, Aug. 18, 1954. Approved, p. 15838, Aug. 31, 1954.

*84th Congress*—P.L. 382 (amends P.L. 815 and 874). H.R. 7245; H. Rept. 1141, p. 11596; amended and passed House, p. 12408, July 30, 1955. Passed Senate, p. 12296, July 30, 1955. Approved, p. 13081, Aug. 12, 1955.

*85th Congress*—P.L. 620 (amends P.L. 815 and 874). H.R. 11378; H. Rept. 1532; amended and passed House, p. 7125, Apr. 23, 1958. S. Rept. 1929; amended and passed Senate, p. 15245, July 28, 1958. House concurs in Senate amendment, p. 15444, July 29, 1958. Approved, p. 18234, Aug. 12, 1958.

*88th Congress*—P.L. 88–210, pt. C (amends P.L. 815 and 874). H.R. 4955; H. Rept. 393, p. 11065; amended and passed House, p. 14297, Aug. 6, 1963. S. Rept. 553; amended and passed Senate, p. 18999, Oct. 8, 1963. Conference report (H. Rept. 1025); House agrees, p. 24921, Dec. 12, 1963. Senate agrees, p. 24486, Dec. 13, 1963. Approved Dec. 18, 1963.

*88th Congress*—P.L. 88–665 (amends P.L. 815 by sec. 1101, amends P.L. 874 by sec. 1102). S. 3060; S. Rept. 1275; passed Senate Aug. 1, 1964, p. 17116 (daily edition of Congressional Record). House amended and passed Aug. 14, 1964, p. 19075 (daily edition). Conference report (H. Rept. 1916), Sept. 30, 1964; House agrees Oct. 1, 1964, p. 22651. Senate agrees Oct. 2, 1964, p. 22747. Approved Oct. 16, 1964.

*89th Congress*—P.L. 89–10

H. Rept. 143 (Committee on Education and Labor).
S. Rept. 146 (Committee on Labor and Public Welfare).
Congressional Record, vol. 111 (1965):
    Mar. 24–25: Considered in House.
    Mar. 26: Considered and passed House.
    Apr. 6–8: Considered in Senate.
    Apr. 9: Considered and passed Senate.

*89th Congress*—P.L. 89–313

H. Rept. 587 (Committee on Education and Labor).
S. Rept. 146 (Committee on Labor and Public Welfare).
Congressional Record, vol. 111 (1965):
    Aug. 30: Considered and passed House.
    Oct. 1: Considered and passed Senate, amended.
    Oct. 13: House concurred in Senate amendments with an amendment.
    Oct. 15: Senate concurred in House amendment.

*89th Congress*—P.L. 89–750

H. Repts.: No. 1814, 1814 pt. II (Committee on Education and Labor) and No. 2309 (Committee of Conference).
S. Rept. No. 1674 accompanying S. 3046 (Committee on Labor and Public Welfare). Congressional Record, vol. 112 (1966):
  Oct. 5: Considered in House.
  Oct. 6: Considered and passed House.
  Oct. 5, 6: S. 3046 considered and passed Senate.
  Oct. 7: Considered and passed Senate, amended, in lieu of S. 3046.
  Oct. 19: Senate agreed to conference report.
  Oct. 20: House agreed to conference report.
  *90th Congress*--P.L. 90-247
H.R. 7819:
  House Reports: No. 188 (Committee on Education and Labor) and No. 1049 (Committee of Conference).
  Senate Report No. 726 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 113 (1967):
    May 22-24: Considered and passed House.
    Dec. 1, 4-8, 11: Considered and passed Senate amended.
    Dec. 15: House and Senate agreed to conference report.

## 4. ADULT EDUCATION ACT OF 1966, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION[*]

**Enacted on November 3, 1966, as title III of P.L. 89–750 (80 Stat. 1216). Amended on January 2, 1968, by P.L. 90–247 (81 Stat. 815).**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Elementary and Secondary Education Amendments of 1966".

* * * * * * *

## TITLE III—ADULT EDUCATION

### SHORT TITLE

SEC. 301. This title may be cited as the "Adult Education Act of 1966". 20 U.S.C. 1201 note.

### STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to encourage and expand basic educational programs for adults to enable them to overcome English language limitations, to improve their basic 20 U.S.C. 1201.

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[*] NOTES.—These provisions were enacted as title III of the Elementary and Secondary Education Act Amendments of 1966.

[**] *Section 111(f) of Public Law 89–750 provides for coordination of the programs of Acts amended by Public Law 89–750 as follows:*

"In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate such programs on the Federal level with the programs being administered by such other departments and agencies, and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964."

[***] *Section 2 of Public Law 90–247 sets guidelines for the administration of programs of Acts amended by Public Law 90–247 as follows:*

"Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States."

[****] *Section 182 of Public Law 89–750 as amended by section 112 of Public Law 90–247 provides for compliance with the Civil Rights Act of 1964 as follows:*

"The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964; *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–352), compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned."

20 U.S.C. 821 nt.
20 U.S.C. 236.
20 U.S.C. 631.
20 U.S.C. 331 nt.
42 U.S.C. 2000d–2000d–4.

81 Stat. 787.

education in preparation for occupational training and more profitable employment, and to become more productive and responsible citizens.

### DEFINITIONS

20 U.S.C. 1202

SEC. 303. As used in this title—

(a) The term "adult" means any individual who has attained the age of eighteen.

(b) The term "adult education" means services or instruction below the college level (as determined by the Commissioner), for adults who—

  (1) do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

  (2) are not currently enrolled in schools.

(c) The term "adult basic education" means education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

(d) The term "Commissioner" means the Commissioner of Education.

(e) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools; except that if here is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(f) The term "State" includes the District of Columbia, and (except for the purposes of section 305 (a)) the Common wealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(g) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purposes of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

### GRANTS TO STATES FOR ADULT BASIC EDUCATION

SEC. 304. (a) From the sums appropriated pursuant to section 314, not less than 10 per centum nor more than 20 per centum shall be reserved for the purposes of section 309. 20 U.S.C. 1203.

(b) From the remainder of such sums, the Commissioner is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of the establishment or expansions of adult basic education programs to be carried out by local educational agencies and private nonprofit agencies. 81 Stat. 815.

### ALLOTMENT FOR ADULT BASIC EDUCATION

SEC. 305. (a) From the sums available for purposes of section 304(b) for any fiscal year, the Commissioner shall allot (1) not more than 2 per centum thereof among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $100,000 to each State. 20 U.S.C. 1204. 81 Stat. 815.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the portion of the State plan relating to adult basic education approved under this title shall be available for reallotment from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

### STATE PLANS

SEC. 306. (a) Any State desiring to receive its allotment of Federal funds for any grant under this title shall submit through its State educational agency a State plan. Such State plan shall be in such detail as the Commissioner deems necessary, and shall— 20 U.S.C. 1205.

(1) set forth a program for the use of grants, in accordance with section 304(b), which affords assurance of substantial progress, with respect to all segments of the adult population and all areas of the State, toward carrying out the purposes of such section;

(2) provide for the administration of such plan by the State educational agency;

(3) provide for cooperative arrangements between the State educational agency and the State health authority authorizing the use of such health information and serv-

ices for adults as may be available from such agencies and as may reasonably be necessary to enable them to benefit from the instruction provided pursuant to this title;

(4) provide for grants to public and private nonprofit agencies for special projects, teacher-training and research;

(5) provide for cooperation with Community Action programs, Work Experience programs, VISTA, Work Study, and other programs relating to the antipoverty effort;

(6) provide that such agency will make such reports to the Commissioner, in such form and containing such information, as may reasonably be necessary to enable the Commissioner to perform his duties under this title and will keep such records and afford such access thereto as the Commissioner finds necessary to assure the correctness and verification of such reports;

(7) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of any accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies) and private nonprofit agencies; and

81 Stat. 815.

(8) provide such further information and assurances as the Commissioner may by regulation require.

(b) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

### PAYMENTS

20 U.S.C. 1206.
81 Stat. 815.

SEC. 307. (a) For the fiscal year ending June 30, 1967, and succeeding fiscal years, the Federal share for each State shall be 90 per centum, except that with respect to the Trust Territory of the Pacific Islands such Federal share shall be 100 per centum.

(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the amount available for expenditure by such State for adult education from non-Federal sources for such year will be not less than the amount expended for such purposes from such sources during the preceding fiscal year.

(c) Payments to a State under this title may be in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

### OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

20 U.S.C. 1207.

SEC. 308. (a) Whenever the Commissioner after reasonable notice and opportunity for hearing to the State educational agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 306, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

(b) A State educational agency dissatisfied with a final action of the Commissioner under section 306 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commssioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive is supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not unless so specifically ordered by the court operate as a stay of the Commissioner's action.

### SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

SEC. 309. (a) The sums reserved in section 304 (a) for the purposes of this section shall be used for making special project grants or providing teacher-training grants in accordance with this section. 20 U.S.C. 1208.

(b) The Commissioner is authorized to make grants to local educational agencies or other public or private nonprofit agencies, including educational television stations, for special projects which will be carried out in furtherance of the purposes of this title, and which—

(1) involve the use of innovative methods, systems, materials, or programs which the Commissioner determines may have national significance or be of special value in promoting effective programs under this title, or

(2) involve programs of adult education carried our in cooperation with other Federal, federally assisted, State, or local programs which the Commissioner determines have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with basic educational deficiencies.

The Commissioner shall establish procedures for making grants under this subsection which shall require a non-Federal contribution of at least 10 per centum of the costs of such projects wherever feasible and not inconsistent with the purposes of this subsection.

(c) The Commissioner is authorized to provide (directly or by contract), or to make grants to colleges or universities, State or local educational agencies, or other appropriate public or private nonprofit agencies or organizations, to provide training to persons engaged, or preparing to engage, as personnel in adult education programs designed to carry out the purposes of this title, with such stipends and allowances, if any (including traveling and subsistence expenses), for persons undergoing such training and their dependents as the Commissioner may by regulation determine.

### ADVISORY COMMITTEE ON ADULT BASIC EDUCATION

20 U.S.C. 1209 SEC. 310. (a) The President shall, within ninety days of enactment of this title appoint a National Advisory Committee on Adult Basic Education.

(b) The National Advisory Committee shall have eight members, consisting of the Commissioner of Education, who shall be chairman, and seven other members who shall, to the extent possible, include persons knowledgeable in the field of adult education, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult basic education, and persons representative of the general public. Such Advisory Committee shall meet at the call of the chairman but not less often than twice a year.

(c) The Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

(d) The Advisory Committee shall review the administration and effectiveness of the adult basic education program and other federally supported adult education programs as they relate to adult basic education, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of this committee with that of other related advisory committees.

(e) Members of the Advisory Committee who are not regular full-time employees of the United States, shall, while serving on the business of the Committee, be entitled to receive compensation at rates fixed by the Commissioner, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

(f) The Commissioner shall engage such technical assistance as may be required to carry out the functions of the Advisory Committee, and the Commissioner shall, in addition, make available to the Advisory Committee such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out its functions.

(g) In carrying out its functions pursuant to this section, the Advisory Committee may utilize the services and facilities of any agency of the Federal Government, in accordance with agreements between the Secretary of Health, Education, and Welfare and the head of such agency.

### ADMINISTRATION

SEC. 311. (a) The Commissioner is authorized to delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Office of Education. 20 U.S.C 1210.

(b) In administering the provisions of this title, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution, in accordance with agreements between the Secretary and the head thereof.

### FEDERAL CONTROL PROHIBITED

SEC. 312. (a) Nothing contained in this title shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, or over the selection of library resources, text-books, or other printed or published instructional materials by any educational institution or school system. 20 U.S.C. 1211.

(b) The National Advisory Committee on Adult Basic Education is authorized to encourage the establishment of State and local adult education advisory committees in order to improve reporting of State and local administration of programs under this title. Such local and State advisory committees may be existing groups or especially established by State and local administrators of the programs to assure that the local program is meeting the needs of the community.

### LIMITATION

20 U.S.C. 1212.

SEC. 313. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

### APPROPRIATIONS AUTHORIZED

20 U.S.C. 1213.

81 Stat. 815.

SEC. 314. There is authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1967, $60,000,000 for the fiscal year ending June 30, 1968, $70,000,000 for the fiscal year ending June 30, 1969, and $80,000,000 for the fiscal year ending June 30, 1970.

*Title IV of the Elementary and Secondary Education Amendments of 1967 makes provisions, applicable to this Act, for adequate leadtime and for planning and evaluation of programs. Such provisions are set out at the end of the Elementary and Secondary Education Act of 1965.*

### Legislative History

### ADULT EDUCATION ACT OF 1966 AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*89th Congress*—P.L. 89-750, title III
H. Repts. 1814, 1814 pt. II (Committee on Education and Labor) and 2309 (committee on conference).
S. Rept. 1674 accompany S. 3046 (Committee on Labor and Public Welfare).
Congressional Record, vol. 112 (1966):
- Oct. 5: Considered in House.
- Oct. 6: Considered and passed House.
- Oct. 5, 6: S. 3046 considered and passed Senate.
- Oct. 7: Considered and passed Senate, amended, in lieu of S. 3046.
- Oct. 19: Senate agreed to conference report.
- Oct. 20: House agreed to conference report.

*90th Congress*—P.L. 90-247
House Reports: No. 188 (Committee on Education and Labor) and No. 1049 (Committee of Conference).
Senate Report No. 726 (Committee on Labor and Public Welfare).
Congressional Record, vol. 113 (1967):
- May 22-24: Considered and passed House.
- Dec. 1, 4-8, 11: Considered and passed Senate amended.
- Dec. 15: House and Senate agreed to conference report.

## 5. COOPERATIVE RESEARCH ACT, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION*

**Enacted on July 26, 1954, as P.L. 531, 83d Congress (62 Stat. 533). Amended on April 11, 1965, by P.L. 89–10 (79 Stat. 27), on November 3, 1966, by P.L. 89–750 (80 Stat. 1191); and on January 2, 1968 by P.L. 90–247 (81 Stat. 820).**

AN ACT To authorize cooperative research in education

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### PURPOSE

SEC. 1. The purpose of this Act is to enable the Office of Education more effectively to accomplish the purposes and to perform the duties for which it was originally established. 20 U.S.C. 331.

### EDUCATIONAL RESEARCH AND RESEARCH TRAINING

SEC. 2. (a)(1) The Commissioner of Education (hereinafter in this Act referred to as the "Commissioner") is authorized to make grants to universities and colleges and other public or 20 U.S.C. 331a

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*NOTES—*Section 111(f) of Public Law 89–750 provides for coordination of the programs of Acts amended by Public Law 89–750 as follows:*

"In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate such programs on the Federal level with the programs being administered by such other departments and agencies and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964."

*******Section 2 of Public Law 90–247 sets guidelines for the administration of programs of Acts amended by Public Law 90–247 as follows:*

"Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States."

******Section 182 of Public Law 89–750 as amended by section 112 of Public Law 90–247 provides for compliance with the Civil Rights Act of 1964 as follows:*

"The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964; "*Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–352), compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned."

20 U.S.C. 821 nt.
20 U.S.C. 236.
20 U.S.C. 631.
20 U.S.C. 331 nt.
42 U.S.C. 2000d–2000d–4.
81 Stat. 787.

private agencies, institutions, and organizations and to individuals for research, surveys, and demonstrations in the field of education (including programs described in section 503(a)(4) and title VII of the Elementary and Secondary Education Act of 1965), and for the dissemination of information derived from educational research (including but not limited to information concerning promising educational practices developed under programs carried out under the Elementary and Secondary Education Act of 1965) and, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), to provide by contracts or jointly financed cooperative arrangements with them for the conduct of such activities; except that no such grant may be made to a private agency, organization, or institution other than a nonprofit one.

81 Stat. 820.

(2) No grant shall be made or contract or jointly financed cooperative arrangement entered into under this subsection until the Commissioner has obtained the advice and recommendations of a panel of specialists who are not employees of the Federal Government and who are competent to evaluate the proposals as to the soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed research, surveys, or demonstrations, and their relationship to other similar educational research or dissemination programs already completed or in progress.

(b) (1) The Commissioner is authorized to make grants to universities and colleges and other public or private agencies, institutions, and organizations to assist them in providing training in research in the field of education (including such research described in section 503 (a) (4) and title VII of the Elementary and Secondary Education Act of 1965), including the development and strengthening of training staff and curricular capability for such training, and without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) to provide by contracts or jointly financed cooperative arrangements with them for the conduct of such activities; except that no such grant may be made to a private agency, organization, or institution other than a nonprofit one.

81 Stat. 820.

(2) Funds available to the Commissioner for grants or contracts or jointly financed cooperative arrangements under this subsection may, when so authorized by the Commissioner, also be used by the recipient (A) in establishing and maintaining research traineeships, internships, personnel exchanges, and pre- and post-doctoral fellowships, and for stipends and allowances (including traveling and subsistence expenses) for fellows and others undergoing training and their dependents not in excess of such maximum amounts as may be prescribed by the Commissioner, or (B) where the recipient is a State educational agency, in providing for such traineeships, internships, personnel exchanges, and fellowships either directly or through arrangements with public or other nonprofit institutions or organizations.

(3) No grant shall be made or contract or jointly financed cooperative arrangement entered into under this subsection

for training in sectarian instruction, or for work to be done in an institution, or a department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

(4) Prior to January 31, 1968, the Commissioner shall make a complete report to the Congress with respect to contracts and other arrangements made pursuant to this subsection with private organizations, including benefits received from such contracts and arrangements, and the Commissioner's recommendations with respect to the continuation of the authority to make such contracts and arrangements with private organizations.

(c) In addition to the authority granted by section 603(b) of the Elementary and Secondary Education Act of 1965, funds available to the Commissioner for grants or contracts or jointly financed cooperative arrangements under this section shall, with the approval of the Secretary, be available for transfer to any other Federal agency for use (in accordance with an interagency agreement) by such agency (alone or in combination with funds of that agency) for purposes for which such transferred funds could be otherwise expended by the Commissioner under the foregoing provisions of this section, and the Commissioner is likewise authorized to accept and expend funds of any other Federal agency for use under this section.

(d) The Commissioner shall transmit to the Congress annually a report concerning the research, surveys, and demonstrations, the information disseminating activities and the training in research initiated under this Act, the recommendations made by research specialists pursuant to subsection (a)(2), and any action taken with respect to such recommendations.

### APPROPRIATIONS

SEC. 3. There are hereby authorized to be appropriated annually to the Office of Education, Department of Health, Education, and Welfare, such sums as the Congress determines to be necessary to carry out the purposes of section 2. 20 USC 332.

### CONSTRUCTION OF REGIONAL FACILITIES FOR RESEARCH AND RELATED PURPOSES

SEC. 4. (a) There are hereby authorized to be appropriated annually five fiscal years beginning with the fiscal year ending June 30, 1966, $100,000,000 in the aggregate, to enable the Commissioner to carry out the purposes of this section. Sums so appropriated shall remain available until expended for payments with respect to projects for which applications have been filed under this section before July 1, 1970, and approved by the Commissioner before July 1, 1971. 20 U.S.C. 332a.

(b) Whenever the Commissioner finds that the purposes of this Act can best be achieved through the construction of a facility for research, or for research and related purposes (as defined in this section), and that such facility would be of particular value to the Nation or a region thereof as a national or regional resource for research or related purposes, he may make a grant for part or all of the cost of constructing such facility to a university, college, or other appropriate public or nonprofit private agency or institution competent to engage in the types of activity for which the facility is to be constructed, or to a combination of such agencies or institutions, or may construct or make arrangements for constructing such facility through contracts for paying part or all of the cost of construction or otherwise. The Commissioner may, where he deems such action appropriate, make arrangements, by contract or otherwise, for the operation of such facilities or may make contributions toward the cost of such operation of facilities of this nature whether or not constructed pursuant to, or with the aid provided under, this section. Title to any facility constructed under this section, if vested in the United States, may be transferred by the Commissioner on behalf of the United States to any such college or university or other public or nonprofit private agency of institution, but such transfer shall be made subject to the conditions that the facility will be operated for the purposes for which it was constructed and to such other conditions as the Commissioner deems necessary to carry out the objectives of this title and to protect the interests of the United States.

(c) All laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of any project under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(d) Payments under this section shall be made in advance or by way of reimbursement, in such installments consistent with construction progress, and on such conditions as the Commissioner may determine.

(e) As used in this section, the term "research and related purposes" means research, research training, surveys, or demonstrations in the field of education, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental schools, except that such term does not include research, research training, surveys, or demonstrations in the field of sectarian instruction or the dissemination of information dervied therefrom.

### DEFINITIONS

20 U.S.C. 332b.

SEC. 5. As used in this Act—

(1) The term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands.

(2) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(3) The term "nonprofit" as applied to any agency, organization, or institution means an agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building) or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered.

### SHORT TITLE

SEC. 6. This Act may be cited as the "Cooperative Research Act". 20 U.S.C. 331 note.

## Legislative History

### COOPERATIVE RESEARCH ACT, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*83d Congress*—P.L. 83-531
H.R. 9040: H. Rept. 1565, p. 6311, May 10, 1954; passed House, p. 6481, May 12, 1954. S. Rept. 1596: Amends H.R. 9040, p. 8117, June 14, 1954. Passed Senate p. 8455, June 17, 1954. Conference report (H. Rept. 2287); House agreed to, p. 11293, July 21, 1954; Senate agrees to conference report, p. 10881, July 19, 1954. Approved July 26, 1954.
*89th Congress*—P.L. 89-10
H. Rept. 143 (Committee on Education and Labor).
S. Rept. 146 (Committee on Labor and Public Welfare).
Congressional Record, vol. 111 (1965):
  Mar. 24-25: Considered in House.
  Mar. 26: Considered and passed House.
  Apr. 6-8: Considered in Senate.
  Apr. 9: Considered and passed Senate.
*89th Congress*—P.L. 89-750
H. Rept. 1814, 1814 pt. II (Committee on Education and Labor) and 2309 (committee on conference).
S. Rept. 1674 accompanying S. 3046 (Committee on Labor and Public Welfare).
Congressional Record, vol. 112 (1966):
  Oct. 5: Considered in House.
  Oct. 6: Considered and passed House.
  Oct. 5, 6: S. 3046 considered and passed Senate.
  Oct. 7: Considered and passed Senate, amended, in lieu of S. 3046.
  Oct. 19: Senate agreed to conference report.
  Oct. 20: House agreed to conference report.
*90th Congress*—P.L. 90-247
House Reports: No. 188 (Committee on Education and Labor) and No. 1049 (Committee of Conference).
Senate Report No. 726 (Committee on Labor and Public Welfare).
Congressional Record, vol. 113 (1967):
  May 22-24: Considered and passed House.
  Dec. 1, 4-8, 11: Considered and passed Senate amended.
  Dec. 15: House and Senate agreed to conference report.

## 6. HIGHER EDUCATION ACT OF 1965, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on November 8, 1965, as P.L. 89–329 (79 Stat. 1219), 20 U.S.C. 1001, Amended on October 29, 1966, by P.L. 89–698 (80 Stat. 1066); on November 3, 1966, by P.L. 89–752 (80 Stat. 1240); on June 29, 1967, by P.L. 90–35 (81 Stat. 81); and on January 2, 1968, by P.L. 90–247 (81 Stat. 783).**

**AN ACT To strengthen the educational resources of our colleges and universities and to provide financial assistance for students in post-secondary and higher education**

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Higher Education Act of 1965."**

## TITLE I—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

### APPROPRIATIONS AUTHORIZED

**SEC. 101. For the purpose of assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1966, and $50,000,000 for the fiscal year ending June 30, 1967, and for the succeeding fiscal year. For the fiscal year ending June 30, 1969, and the succeeding fiscal year, there may be appropriated, to enable the Commissioner to make such grants, only such sums as the Congress may hereafter authorize by law.** 20 U.S.C. 1001.

### DEFINITION OF COMMUNITY SERVICE PROGRAM

**SEC. 102. For purposes of this title, the term "community service program" means an educational program, activity, or service, including a research program and a university extension or continuing education offering, which is designed to assist in the solution of community problems in rural, urban, or suburban areas, with particular emphasis on urban and suburban problems, where the institution offering such program, activity, or service determines—** 20 U.S.C. 1002.

**(1) that the proposed program, activity, or service is not otherwise available, and**

(2) that the conduct of the program or performance of the activity or service is consistent with the institution's over-all educational program and is of such a nature as is appropriate to the effective utilization of the institution's special resources and the competencies of its faculty.

Where course offerings are involved, such courses must be university extension or continuing education courses and must be—

(A) fully acceptable toward an academic degree, or

(B) of college level as determined by the institution offering such courses.

### ALLOTMENTS TO STATES

20 U.S.C. 1003.

SEC. 103. (a) Of the sums appropriated pursuant to section 101 for each fiscal year, the Commissioner shall allot $25,000 each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands and $100,000 to each of the other States, and he shall allot to each State an amount which bears the same ratio to the remainder of such sums as the population of the State bears to the population of all States.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the State plan (if any) approved under this title shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under such subsection for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year from funds appropriated pursuant to section 101 shall be deemed part of its allotment under subsection (a) for such year.

(c) In accordance with regulations of the Commissioner, any State may file with him a request that a specified portion of its allotment under this title be added to the allotment of another State under this title for the purpose of meeting a portion of the Federal share of the cost of providing community service programs under this title. If it is found by the Commissioner that the programs with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this title, such portion of such State's allotment shall be added to the allotment of the other State under this title to be used for the purpose referred to above.

(d) The population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available from the Department of Commerce.

### USES OF ALLOTTED FUNDS

SEC. 104. A State's allotment under section 103 may be used, in accordance with its State plan approved under section 105 (b), to provide new, expanded, or improved community service programs. 20 U.S.C. 1004.

### STATE PLANS

SEC. 105. (a) Any State desiring to receive its allotment of Federal funds under this title shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service programs, and shall submit to the Commissioner through the agency or institution so designated a State plan. If a State desires to designate for the purposes of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this title shall be in such detail as the Commissioner deems necessary and shall— 20 U.S.C. 1005

(1) provide that the agency or institution so designated or created shall be the sole agency for administration of the plan or for supervision of the administration of the plan; and provide that such agency or institution shall consult with any State advisory council required to be created by this section with respect to policy matters arising in the administration of such plan;

(2) set forth a comprehensive, coordinated, and statewide system of community service programs under which funds paid to the State (including funds paid to an institution pursuant to section 106(c)) under its allotments under section 103 will be expended solely for community service programs which have been approved by the agency or institution administering the plan;

(3) set forth the policies and procedures to be followed in allocating Federal funds to institutions of higher education in the State, which policies and procedures shall insure that due consideration will be given—

(A) to the relative capacity and willingness of particular institutions of higher education (whether public or private) to provide effective community service programs;

(B) to the availability of and need for community service programs among the population within the State; and

(C) to the results of periodic evaluations of the programs carried out under this title in the light of information regarding current and anticipated community problems in the State;

(4) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, or funds of institutions of higher education, but to supplement and, to the extent practicable, to increase the amounts of such funds that would in the absence of such Federal funds be made available for community service programs;

(5) set forth such fiscal control and funds accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State (including such funds paid by the State or by the Commissioner to institutions of higher education) under this title; and

(6) provide for making such reports in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

### PAYMENTS

20 U.S.C. 1006.

SEC. 106. (a) Except as provided in subsection (b) payment under this title shall be made to those State agencies and institutions which administer plans approved under section 105(b). Payments under this title from a State's allotment with respect to the cost of developing and carrying out its State plan shall equal 75 per centum of such costs for the fiscal year ending June 30, 1966. 75 per centum of such costs for the fiscal year ending June 30, 1967, and 50 per centum of such costs for each of the three succeeding fiscal years, except that no payments for any fiscal year shall be made to any State with respect to expenditures for developing and administering the State plan which exceed 5 per centum of the costs for that year for which payment under this subsection may be made to that State, or $25,000, whichever is the greater. In determining the cost of developing and carrying out a State's plan, there shall be excluded any cost with respect to which payments were received under any other Federal program.

(b) No payments shall be made to any State from its allotments for any fiscal year unless and until the Commissioner finds that the institutions of higher education which will participate in carrying out the State plan for that year will together have available during that year for expenditure from non-Federal sources for college and university extension and continuing education programs not less than the total amount actually expended by those institutions for college and university extension and continuing education programs from such sources during the fiscal year ending June 30, 1965, plus an amount equal to not less than the non-Federal share of the costs with respect to which payment pursuant to subsection (a) is sought.

(c) Payments to a State under this title may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments, and they may be paid directly to the State or to one or more participating institutions of higher education designated for this purpose by the State, or to both.

### ADMINISTRATION OF STATE PLANS

SEC. 107. (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State agency or institution submitting the plan reasonable notice and opportunity for a hearing. 20 U.S.C. 1007.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency or institution administering a State plan approved under section 105(b), finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 105(a), or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify the State agency or institution that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

### JUDICIAL REVIEW

SEC. 108. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 105(a) or with his final action under section 107(b), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court of the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. 20 U.S.C. 1008.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorar or certification as provided in section 1254 of title 28, United States Code.

## NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

20 U.S.C. 1009.

SEC. 109. (a) The President shall, within ninety days of enactment of this title, appoint a National Advisory Council on Extension and continuing Education (hereafter referred to as the "Advisory Council"), consisting of the Commissioner, who shall be Chairman, one representative each of the Departments of Agriculture, Commerce, Defense, Labor, Interior, State, and Housing and Urban Development, and the Office of Economic Opportunity, and of such other Federal agencies having extension education responsibilities as the President may designate, and twelve members appointed, for staggered terms and without regard to the civil service laws, by the President. Such twelve members shall, to the extent possible, include persons knowledgeable in the fields of extension and continuing education, State and local officials, and other persons having special knowledge, experience, or qualification with respect to community problems, and persons representative of the general public. The Advisory Council shall meet at the call of the Chairman but not less often than twice a year.

(b) The Advisory Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 105(b), and policies to eliminate duplication and to effectuate the coordination of programs under this title and other programs offering extension or continuing education activities and services.

(c) The Advisory Council shall review the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs, make recommendations with respect thereto, and make annual reports commencing on March 31, 1967, of its findings and recommendations (including recommendations for changes in the provisions of this title and other Federal laws relating to extension and continuing education activities) to the Secretary and to the President. The President shall transmit each such report to the Congress together with his comments and recommendations.

(d) Members of the Advisory Council who are not regular fulltime employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(e) The Secretary shall engage such technical assistance as may be required to carry out the functions of the Advisory Council, and the Secretary shall, in addition, make available to the Advisory Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of

Health, Education, and Welfare as it may require to carry out its functions.

(f) In carrying out its functions pursuant to this section, the Advisory Council may utilize the services and facilities of any agency of the Federal Government, in accordance with agreements between the Secretary and the head of such agency.

### RELATIONSHIP TO OTHER PROGRAMS

SEC. 110. Nothing in this title shall modify authorities under the Act of February 23, 1917 (Smith-Hughes Vocational Education Act), as amended (20 U.S.C. 11–15, 16–28); the Vocational Education Act of 1946, as amended (20 U.S.C. 15i–15m, 15o–15q, 15aa–15jj, and 15aaa–15ggg); the Vocational Educational Act of 1963 (20 U.S.C. 35–35n); title VIII of the Housing Act of 1964 (Public Law 88–560); or the Act of May 8, 1914 (Smith-Lever Act) as amended (7 U.S.C. 341–348). 20 USC 1010.

### LIMITATION

SEC. 111. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects. 20 USC 1011.

## TITLE II—COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

### PART A—COLLEGE LIBRARY RESOURCES

### APPROPRIATIONS AUTHORIZED

SEC. 201. There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1966, and for each of the two succeeding fiscal years, to enable the Commissioner to make grants under this part to institutions of higher education to assist and encourage such institutions in the acquisition for library purposes of books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials (including necessary binding). For the fiscal year ending June 30, 1969, and the succeeding fiscal year, there may be appropriated, to enable the Commissioner to make such grants, only such sums as the Congress may hereafter authorize by law. 20 U.S.C. 1021.

### BASIC GRANTS

20 U.S.C. 1022.

SEC. 202. From 75 per centum of the sums appropriated pursuant to section 201 for any fiscal year, the Commissioner is authorized to make basic grants for the purposes set forth in that section to institutions of higher education and combinations of such institutions. The amount of a basic grant shall not exceed $5,000 for each such institution of higher education and each branch of such institution which is located in a community different from that in which its parent institution is located, as determined in accordance with regulations of the Commissioner, and a basic grant under this subsection may be made only if the application therefor is approved by the Commissioner upon his determination that the application (whether by an individual institution or a combination of institutions)—

(a) provides satisfactory assurance that the applicant will expend during the fiscal year for which the grant is requested (from funds other than funds received under this part) for all library purposes (exclusive of construction) (1) an amount not less than the average annual amount it expended for such purposes during the two-year period ending June 30, 1965, or during the two fiscal years preceding the fiscal year for which the grant is requested, whichever is the lesser,[1] and (2) an amount (from such other sources) equal to not less than the amount of such grant;

(b) provides satisfactory assurance that the applicant will expend during the fiscal year for which the grant is requested (from funds other than funds received under this part) for books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related materials (including necessary binding) for library purposes an amount not less than the average annual amount it expended for such materials during the two-year period ending June 30, 1965, or during the two fiscal years preceding the fiscal year for which the grant is requested, whichever is the lesser;

(c) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(d) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

### SUPPLEMENTAL GRANTS

20 U.S.C. 1023.

SEC. 203. (a) From the remainder of such 75 per centum of the sums appropriated pursuant to section 201 for any fiscal year, plus any part of such sums as the Commissioner determines will not be used for making grants under section 204, the Commissioner is authorized to make supplemental grants for the purposes set forth in section 201 to institutions of higher education and combinations of such institutions. The amount of a supplemental grant shall not exceed $10 for each full-time student (including the full-time equivalent of the number of part-time students) enrolled in each such institution, as determined pursuant to regulations of the Commissioner. A supplemental grant may be made only upon application therefor, in such form and containing such information as the Commissioner may require, which application shall—

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[1] By Sec. 9 of P.L. 89-752 the clauses beginning with "or during", inserted after "June 30, 1965", in sections 202(a)(1) and 202(b) are effective for fiscal years beginning after June 30, 1966.

(1) meet the application requirements set forth in section 202 except for the matching requirement set forth in paragraph (a)(2) of that section;

(2) describe the size and quality of the library resources of the applicant in relation to its present enrollment and any expected increase in its enrollment;

(3) set forth any special circumstances which are impeding or will impede the proper development of its library resources; and

(4) provide a general description of how a supplemental grant would be used to improve the size or quality of its library resources.

(b) The Commissioner shall approve applications for supplemental grants on the basis of basic criteria prescribed in regulations and developed after consultation with the Council created under section 205. Such basic criteria shall be such as will best tend to achieve the objectives of this part and they (1) may take into consideration factors such as size and age of the library collection and student enrollment, and (2) shall give priority to institutions in need of financial assistance for library purposes.

### SPECIAL PURPOSE GRANTS

SEC. 204. (a)(1) Twenty-five per centum of the sums appropriated pursuant to section 201 for each fiscal year shall be used by the Commissioner in accordance with this subsection. 20 USC 1024.

(2) Of the sums available for use under paragraph (1) sixty per centum may be used to make special grants (A) to institutions of higher education which demonstrate a special need for additional library resources and which demonstrate that such additional library resources will make a substantial contribution to the quality of their educational resources, (B) to institutions of higher education to meet special national or regional needs in the library and information sciences, and (C) to combinations of institutions of higher education which need special assistance in establishing and strengthening joint-use facilities. Grants under this section may be used only for books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials (including necessary binding).

(3) Any sums available for use under paragraph (1) which are not used for the purposes of paragraph (2) shall be used in the manner prescribed by the first sentence of section 203(a).

(b) Grants pursuant to paragraph (2) shall be made upon application providing satisfactory assurance that (1) the applicant (or applicants jointly in the case of a combination of institutions) will expend during the fiscal year for which the grant is requested (from funds other than funds received under this part) for the same purpose as such grant an amount from such other sources equal to not less than 33⅓ per centum of such grant, and (2) in addition each such applicant will expend during such fiscal year (from such other sources) for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two-year period ending June 30, 1965.

### ADVISORY COUNCIL ON COLLEGE LIBRARY RESOURCES

20 U.S.C. 1025.

SEC. 205. (a) The Commissioner shall establish in the Office of Education an Advisory Council on College Library Resources consisting of the Commissioner, who shall be Chairman, and eight members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary.

(b) The Advisory Council shall advise the Commissioner with respect to establishing criteria for the making of supplemental grants under section 203 and the making of special purpose grants under section 204. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful in carrying out the functions of the Advisory Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

### ACCREDITATION REQUIREMENT FOR PURPOSES OF THIS PART

20 U.S.C. 1026.

SEC. 206. For the purposes of this part, an educational institution shall be deemed to have been accredited by a nationally recognized accrediting agency or association if the Commissioner determines that there is satisfactory assurance that upon acquisition of the library resources with respect to which assistance under this part is sought, or upon acquisition of those resources and other library resources planned to be acquired within a reasonable time, the institution will meet the accreditation standards of such agency or association.

### LIMITATION

SEC. 207. No grant may be made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects. 20 U.S.C. 1027.

### CONSULTATION WITH STATE AGENCY

SEC. 208. Each institution of higher education which receives a grant under this part shall periodically inform the State agency (if any) concerned with the educational activities of all institutions of higher education in the State in which such institution is located, of its activities under this part. 20 U.S.C. 1028.

## PART B—LIBRARY TRAINING AND RESEARCH

### APPROPRIATIONS AUTHORIZED

SEC. 221. There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1966, and for each of the two succeeding fiscal years, for the purpose of carrying out this part. For the fiscal year ending June 30, 1969, and the succeeding fiscal year, there may be appropriated for such purpose only such sums as the Congress may hereafter authorize by law. 20 U.S.C. 1031.

### DEFINITION OF "LIBRARIANSHIP"

SEC. 222. For the purposes of this part the term "librarianship" means the principles and practices of the library and information sciences, including the acquisition, organization, storage, retrieval, and dissemination of information, and reference and research use of library and other information resources. 20 U.S.C. 1032.

### GRANTS FOR TRAINING IN LIBRARIANSHIP

SEC. 223. (a) The Commissioner is authorized to make grants to institutions of higher education to assist them in training persons in librarianship. Such grants may be used by such institutions to assist in covering the cost of courses of training or study for such persons, and for establishing and maintaining fellowships or traineeships with stipends (including allowances for traveling, subsistence and other expenses) for fellows and others undergoing training and their dependents not in excess of such maximum amounts as may be prescribed by the Commissioner. 20 U.S.C. 1033.

(b) The Commissioner may make a grant to an institution of higher education only upon application by the institution and only upon his finding that such program will substantially further the objective of increasing the opportunities throughout the Nation for training in librarianship.

### RESEARCH AND DEMONSTRATIONS RELATING TO LIBRARIES AND THE TRAINING OF LIBRARY PERSONNEL

20 U.S.C. 1034. Sec. 224. (a) The Commissioner is authorized to make grants to institutions of higher education and other public or private agencies, institutions, and organizations, for research and demonstration projects relating to the improvement of libraries or the improvement of training in librarianship, including the development of new techniques, systems, and equipment for processing, storing, and distributing information, and for the dissemination of information derived from such research and demonstrations, and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to provide by contracts with them for the conduct of such activities; except that no such grant may be made to a private agency, organization, or institution other than a nonprofit one.

(b) The Commissioner is authorized to appoint a special advisory committee of not more than nine members to advise him on matters of general policy concerning research and demonstration projects relating to the improvement of libraries and the improvement of training in librarianship, or concerning special services necessary thereto or special problems involved therein.

(c) Members of the committee appointed under this section who are not regular full-time employees of the United States shall, while serving on the business of the committee, be entitled to receive compensation at rates fixed by the Commissioner, but not in excess of $100 per diem, including travel time; and they may, while so serving away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

## Part C—Strengthening College and Research Library Resources

### APPROPRIATIONS AUTHORIZED

20 U.S.C. 1041. Sec. 231. There are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1966, $6,315,000 for the fiscal year ending June 30, 1967, and $7,770,000 for the fiscal year ending June 30, 1968, to enable the Commissioner to transfer funds to Librarian of Congress for the purpose of—

(1) acquiring, so far as possible, all library materials currently published throughout the world which are of value to scholarship; and

(2) providing catalog information for these materials promptly after receipt, and distributing bibliographic in-

formation by printing catalog cards and by other means, and enabling the Library of Congress to use for exchange and other purposes such of these materials as are not needed for its own collections.

For the fiscal year ending June 30, 1969, and the succeeding fiscal year, there may be appropriated, to enable the Commissioner to transfer funds to the Librarian of Congress for such purpose, only such sums as the Congress may hereafter authorize by law.

## TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

### STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

SEC. 301. (a) The purpose of this title is to assist in raising the academic quality of colleges which have the desire and potential to make a substantial contribution to the higher education resources of our Nation but which for financial and other reasons are struggling for survival and are isolated from the main currents of academic life, and to do so by enabling the Commissioner to establish a national teaching fellow program and to encourage and assist in the establishment of cooperative arrangements under which these colleges may draw on the talent and experience of our finest colleges and universities, and on the educational resources of business and industry, in their effort to improve their academic quality. 20 U.S.C. 1051.

(b)(1) There is authorized to be appropriated the sum of $55,000,000 for the fiscal year ending June 30, 1966, the sum of $30,000,000 for the fiscal year ending June 30, 1967, and the sum of $55,000,000 for the fiscal year ending June 30, 1968, to carry out the provisions of this title. 80 Stat. 1243.

(2) Of the sums appropriated pursuant to this section for any fiscal year, 78 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which plan to award one or more bachelor's degrees during such year.

(3) The remainder of the sums so appropriated shall be available only for carrying out the provisions of this title with respect to developing institutions which do not plan to award such a degree during such year.

### DEFINITION OF "DEVELOPING INSTITUTION"

SEC. 302. As used in this title term "developing institution" means a public or nonprofit educational institution in any State which— 20 USC 1052.

(a) admits as regular students only persons having a certificate of graduation from a secondary school, or the recognized equivalent of such certificate;

(b) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge;

(c) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(d) has met the requirements of clauses (a) and (b) during the five academic years preceding the academic year for which it seeks assistance under this title;

(e) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services;

(f) is, for financial or other reasons, struggling for survival and is isolated from the main currents of academic life;

(g) meets such other requirements as the Commissioner may prescribe by regulation; and

(h) is not an institution, or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

### ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

20 U.S.C. 1053.

SEC. 303. (a) The Commissioner shall establish in the Office of Education an Advisory Council on Developing Institutions (hereinafter in this title referred to as the "Council"), consisting of the Commissioner who shall be Chairman, one representative each of such Federal agencies having responsibilities with respect to developing institutions as the Commissioner may designate, and eight members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary.

(b) The Council shall advise the Commissioner with respect to policy matters arising in the administration of this title and in particular shall assist the Commissioner in identifying those developing institutions through which the purposes of this title can best be achieved and in establishing priorities for use in approving applications under this title. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful in carrying out the functions of the Council.

(c) Members of the Council who are not otherwise full-time employees of the United States shall, while serving on business of the Council, receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

### GRANTS FOR COOPERATIVE AGREEMENTS TO STRENGTHEN DEVELOPING INSTITUTIONS

SEC. 304. (a) The Commissioner is authorized to make grants to developing institutions and other colleges and universities to pay part of the cost of planning, developing, and carrying out cooperative arrangements which show promise as effective measures for strengthening the academic programs and the administration of developing institutions. Such cooperative arrangements may be between developing institutions, between developing institutions and other colleges and universities, and between developing institutions and organizations, agencies, and business entities. Grants under this section may be used for projects and activities such as— 20 U.S.C. 1054.

(1) exchange of faculty or students, including arrangements for bringing visiting scholars to developing institutions;

(2) faculty and administration improvement programs utilizing training, education (including fellowships leading to advanced degrees), internships, research participation, and other means;

(3) introduction of new curriculums and curricular materials;

(4) development and operation of cooperative education programs involving alternate periods of academic study and business or public employment;

(5) joint use of facilities such as libraries or laboratories, including necessary books, materials, and equipment; and

(6) other arrangements which offer promise of strengthening the academic programs and the administration of developing institutions.

(b) A grant may be made under this section only upon application to the Commissioner at such time or times and containing such information as he deems necessary. The Commissioner shall not approve an application unless it—

(1) sets forth a program for carrying out one or more projects or activities which meet the requirements of subsection (a) and provides for such methods of administration as are necessary for the proper and efficient operation of the program;

(2) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes which meet the requirements of subsection (a), and in no case supplant such funds;

(3) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(4) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(c) The Commissioner shall, after consultation with the Council, establish criteria as to eligible expenditures for which grants made under this section may be used, which criteria shall be so designed as to prevent the use of such grants for expenditures not necessary to the achievement of the purposes of this title.

### NATIONAL TEACHING FELLOWSHIPS

20 USC 1055.

SEC. 305. (a) The Commissioner is authorized to award fellowships under this section to highly qualified graduate students and junior members of the faculty of colleges and universities, to encourage such individuals to teach at developing institutions. The Commissioner shall award fellowships to individuals for teaching at developing institutions only upon application by an institution approved for this purpose by the Commissioner and only upon finding by the Commissioner that the program of teaching set forth in the application is reasonable in the light of the qualifications of the teaching fellow and of the educational needs of the applicant.

(b) Fellowships may be awarded under this section for such period of teaching as the Commissioner may determine, but such period shall not exceed two academic years. Each person awarded a fellowship under the provisions of this section shall receive a stipend for each academic year of teaching of not more than $6,500 as determined by the Commissioner upon the advice of the Council, plus an additional amount of $400 for each such year on account of each of his dependents.

## TITLE IV—STUDENT ASSISTANCE

### PART A—EDUCATIONAL OPPORTUNITY GRANTS

### STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

20 USC 1061.

SEC. 401. (a) It is the purpose of this part to provide, through institutions of higher education, educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means of their own or of their families would be unable to obtain such benefits without such aid.

(b) There are hereby authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1966, and for each of the two succeeding fiscal years, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 407, for use by such institutions for payments to undergraduate students for the initial academic year of educational opportunity grants awarded to them under this part. For the fiscal year ending June 30, 1969 and for the succeeding fiscal year, there may be appropriated, to carry out the first sentence of this subsection only such sums as the Congress may hereafter authorize by law. There are further authorized to be appropriated such sums as may be necessary for payment to such institutions for use by them for making educational opportunity grants under this part to undergraduate students for academic years other than the initial year of their educational opportunity grants; but no appropriation may be made pursuant to this sentence for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under the first sentence. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated. For the purposes of this subsection payment for the first year of an educational opportunity grant shall not be considered as an initial-year payment if the educational opportunity grant was awarded for the continuing education of a student who had been previously awarded an educational opportunity grant under this part (whether by another institution or otherwise) and had received payment for any year of that educational opportunity grant.

### AMOUNT OF EDUCATIONAL OPPORTUNITY GRANT—ANNUAL DETERMINATION

SEC. 402. From the funds received by it for such purpose under this part, an institution of higher education which awards an educational opportunity grant to a student under this part shall, for the duration of the grant, pay to that student for each academic year during which he is in need of grant aid to pursue a course of study at the institution, an amount determined by the institution for such student with respect to that year, which amount shall not exceed— 20 U.S.C. 1062.

(1) the lesser of $800 or one-half of the sum of the amount of student financial aid (including assistance under this title, but excluding assistance from work-study programs) provided such student by such institution and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulation of the Commissioner, or

(2) in the case of a student who during the preceding academic year at an institution of higher education received grades placing him in the upper half of his class, the amount determined under paragraph (1), plus $200.

If the amount of the payment determined under the preceding sentence for an academic year is less than $200 for a student, no payment shall be made under this title to that student for that year. The Commissioner shall, subject to the foregoing limitations, prescribe for the guidance of participating institutions basic criteria for schedules (or both) for the determination of the amount of any such educational opportunity grant, taking into account the objective of limiting grant aid under this part to students of exceptional financial need and such other factors, including the number of dependents in the family, as the Commissioner may deem relevant.

### DURATION OF EDUCATIONAL OPPORTUNITY GRANT

20 USC 1063.

SEC. 403. The duration of an educational opportunity grant awarded under this part shall be the period required for completion by the recipient of his undergraduate course of study at the institution of higher education from which he received the educational opportunity grant, except that such period shall not exceed four academic years less any such period with respect to which the recipient has previously received payments under this part pursuant to a prior educational opportunity grant (whether made by the same or another institution). And educational opportunity grant awarded under this part shall entitle the recipient to payments only if he (1) is maintaining satisfactory progress in the course of study which he is pursuing, according to the regularly prescribed standards and practices of the institution from which he received the grant, and (2) is devoting essentially full time to that course of study, during the academic year, in attendance at that institution. Failure to be in attendance at the institution during vacation periods or periods of military service, or during other periods during which the Commissioner determines in accordance with regulations that there is good cause for his nonattendance (during which periods he shall receive no payments) shall not be deemed contrary to clause (2).

### SELECTION OF RECIPIENTS OF EDUCATIONAL OPPORTUNITY GRANTS

20 USC 1064.

SEC. 404. (a) An individual shall be eligible for the award of an educational opportunity grant under this part at any institution of higher education which has made an agreement with the Commissioner pursuant to section 407 (which institution is hereinafter in this part referred to as an "eligible institution"), if the individual makes application at the time and in the manner prescribed by that institution.

(b) From among those eligible for educational opportunity grants from an institution of higher education for each fiscal year, the institution shall, in accordance with the provisions of its agreement with the Commissioner under section 407 and within the amount allocated to the institution for that purpose for that year under section 406, select individuals who are to be awarded such grants and determine, pursuant to section 402, the amounts to be paid to them. An institution shall not award an educational opportunity grant to an individual unless it determines that—

(1) he has been accepted for enrollment as a full-time student at such institution or, in the case of a student already attending such institution, is in good standing and in full-time attendance there as an undergraduate student;

(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study;

(3) he is of exceptional financial need; and

(4) he would not, but for an educational opportunity grant, be financially able to pursue a course of study at such institution of higher education.

### ALLOTMENT OF EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

SEC. 405. (a)(1) From the sums appropriated pursuant to the first sentence of section 401(b) for any fiscal year, the Commissioner shall allot to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States. The number of persons enrolled on a full-time basis in institutions of higher education for purposes of this section shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him. 20 U.S.C. 1065.

(2) If the total of the sums determined by the Commissioner to be required under section 406 for any fiscal year for eligible institutions in a State is less than the amount of the allotment to that State under paragraph (1) for that year, the Commissioner may reallot the remaining amount from time to time, on such date or dates as he may fix, to other States in such manner as he determines will best assist in achieving the purposes of this part.

(b) Sums appropriated pursuant to the third sentence of section 401(b) for any fiscal year shall be allotted or reallotted among the States in such manner as the Commissioner determines to be necessary to carry out the purposes for which sums are appropriated.

### LOCATION OF ALLOTTED FUNDS TO INSTITUTIONS

SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions in any State must file applications for allocation to such institutions, of educational opportunity grant funds from the allotment to that State (including any reallotment thereto) for any fiscal year pursuant to section 405(a), to be used for the purposes specified in the first sentence of section 401(b). Such allocations shall be made in accordance with equitable criteria which the Commissioner shall establish and which shall be designed to achieve such distribution of such funds among eligible institutions within a State as will most effectively carry out the purposes of this part. 20 U.S.C. 1066.

(b) The Commissioner shall further, in accordance with regulations, allocate to eligilbe institutions, in any State, from funds apportioned or reapportioned pursuant to section 405(b), funds to be used for the educational opportunity grants specified in the third sentence of section 401(b).

(c) Payment shall be made from allocations under this section to institutions as needed.

### AGREEMENTS WITH INSTITUTIONS—CONDITIONS

20 U.S.C. 1067.

SEC. 407. (a) An institution of higher education which desires to obtain funds for educational opportunity grants under this part, shall enter into an agreement with the Commissioner. Such agreement shall—

(1) provide that funds received by the institution under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

(2) provide that in determining whether an individual meets the requirements of section 404(b)(3) the institution will (A) consider the source of such individual's income and that of any individual or individuals upon whom the student relies primarily for support, and (B) make an appropriate review of the assets of the student and of such individuals;

(3) provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and to encourage them to continue their education beyond secondary school through programs and activities such as—

(A) establishing or strengthening close working relationships with secondary-school principals and guidance and counseling personnel with a view toward motivating students to complete secondary school and pursue post-secondary-school educational opportunities, and

(B) making, to the extent feasible, conditional commitments for educational opportunity grants to qualified secondary school students with special emphasis on students enrolled in grade 11 or lower grades who show evidences of academic or creative promise;

(4) provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this part, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement;

(5) include provisions designed to make educational opportunity grants under this part reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part.

(b) (1) An institution, which as in effect an agreement for Federal capital contributions for a student loan fund pursuant to title II of the National Defense Education Act of 1958, may use, as an additional Federal capital contribution for the purposes of such loan fund, not to exceed 25 per centum of the funds paid to it for any fiscal year ending prior to July 1, 1970, for the purpose set forth in section 401(b). The requirement in section 204(2) (B) of such Act shall not apply to such a Federal capital contribution. 20 U.S.C. 421-429.

(2) for the purpose of making payments from amounts appropriated pursuant to the third sentence of section 401(b), any institution electing for any fiscal year to use an amount of its payment as a Federal capital contribution pursuant to paragraph (1) shall be paid an equal amount for each of the succeeding three fiscal years from such amounts appropriated pursuant to such third sentence, if the amount so paid to the institution for each such year is used by such institution as such a Federal capital contribution.

### CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT

SEC. 408. (a) To assist in achieving the purposes of this part the Commissioner is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), to enter into contracts, not to exceed $100,000 per year, with State and local educational agencies and other public or nonprofit organizations and institutions for the purpose of— 20 U.S.C. 1068.

(1) identifying qualified youths of exceptional financial need and encouraging them to complete secondary school and undertake postsecondary educational training.

(2) publicizing existing forms of student financial aid, including aid furnished under this part, or

(3) encouraging secondary-school or college dropouts of demonstrated aptitude to reenter educational programs, including post-secondary-school programs.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

### DEFINITION OF "ACADEMIC YEAR"

SEC. 409. As used in this part, the term "academic year" means an academic year or its equivalent as defined in regulations of the Commissioner. 20 U.S.C. 1069.

## PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

### STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

SEC. 421. (a) The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in 20 U.S.C. 1071.

section 435), (2) to provide a Federal program of student loan insurance for students who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b), and (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

(b) For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000 and (B) such further sums if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor, and

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs.

Sums appropriated under clauses (1) and (2) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

### ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

20 U.S.C. 1072.

SEC. 422. (a)(1) From the sums appropriated pursuant to clause (3) of section 421(b), the Commissioner is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any of the fiscal years ending June 30, 1966, June 30, 1967, or June 30, 1968, a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in that State to participate in a program of student loan insurance covered by such an agreement. The Commissioner may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organization (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

(2) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Commissioner determines will best carry out the purposes of this section. Advances made by the Commissioner under this subsection shall be repaid within such period as the Commissioner may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) The total of the advances to any State pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two, inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations pursuant to subsection (a) may be in such amounts as the Commissioner determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection. For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

### EFFECT OF ADEQUATE NON-FEDERAL PROGRAMS

SEC. 423. The Commissioner shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b). 20 U.S.C. 1073.

### SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $700,000,000 in the fiscal year ending June 30, 1966, $1,000,000,000 in the fiscal year ending June 30, 1967, and $1,400,000,000 in the fiscal year ending June 30, 20 U.S.C. 1074.

1968. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after June 30, 1972.

(b) The Commissioner may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

### LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

20 U.S.C. 1075.

SEC. 425. (a)(1) The total of the loans made to a student in any academic year or its equivalent (as determined under regulations of the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $1,500 in the case of a graduate or professional student (as defined in regulations of the Commissioner), or $1,000 in the case of any other student. The aggregate insured unpaid principal amount of all such insured loans made to any student shall not at any time exceed $7,500 in the case of any graduate or professional student (as defined in regulations of the Commissioner, and including any such insured loans made to such person before he became a graduate or professional student), or $5,000 in the case of any other student. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(2) If in any academic year or its equivalent a student receives a loan which is insured by the Commissioner under this part, no loan to that student in that year may be made or insured by the Commissioner under the National Vocational Student Loan Insurance Act of 1965; and if in any academic year or its equivalent a student receives a loan which is made or insured by the Commissioner under the National Vocational Student Loan Insurance Act of 1965, no loan to that student in that year may be insured by the Commissioner under this part.

(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan. Such insurance liability shall not include liability for interest whether or not that interest has been added to the principal amount of the loan.

### SOURCES OF FUNDS

20 U.S.C. 1076.

SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

## ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF STUDENT LOANS

SEC. 427. (a) A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if— 20 U.S.C. 1077.

(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, and (B) is carrying at least one-half of the normal full-time workload as determined by the institution, and (C) has provided the lender with a statement of the institution which sets forth a schedule of the tuition and fees applicable to that student and its estimate of the cost of board and room for such a student; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid) nor more than ten years beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made.

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an institution of higher education or at a comparable institution outside the States approved for this purpose by the Commissioner, (ii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, or (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above, 22 U.S.C. 2501 nt.

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional or other appropriate basis, which interest shall be payable in installments over the period of the loan, except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal (but without thereby increasing the insurance liability under this part),

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part,

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan, and

(G) contains such other terms and conditions consistent with the provisions of this part and with the regulations issued by the Commissioner pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Commissioner with respect to such loan.

(b) No maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 6 per centum per annum on the unpaid principal balance of the loan, except that under circumstances which threaten to impede the carrying out of the purposes of this part, one or more of such maximum rates of interest may be as high as 7 per centum per annum on the unpaid principal balance of the loan.

(c) The total of payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured by the Commissioner under this part shall not be less than $360 or the balance of all of such loans (together with interest thereon), whichever amount is less.

## FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

20 U.S.C. 1078.

SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Commissioner under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (4), or

(C) which is insured under a program of a State or of a nonprofit private institution or organization, which was contracted for, and paid to the student, within the period specified in paragraph (4), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

and who adjusted family income is less than $15,000 at the time of execution of the note or written agreement evidencing such loan, shall be entitled to have paid on his behalf and for his account to the holder of the loan, over the period of the loan, a portion of the interest on the loan. For the purposes of this paragraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of the execution of the note or written agreement evidencing the loan. Such regulations shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate, In the absence of fraud by the lender, such determination of the adjusted family income of a student shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

(2) The portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, and 3 per centum per annum or the unpaid principal amount of the loan (excluding interest which has been added to principal) thereafter; but such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of the interest which has been so determined. The Commissioner shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or if the

loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(3) Each holder of a loan with respect to which payments of interest are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

(4) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of June 30, 1968, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of June 30, 1972.

(5) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1958.

20 U.S.C. 421–429.

(6) In no event shall interest payments with respect to the same student loan be made under both this section and under section 9 of the National Vocational Student Loan Insurance Act of 1965.

(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of not less than $1,000 nor more than $1,500 in loans to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner);

(B) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Commissioner);

(C) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Commissioner in effect at the time such note or written evidence was executed;

(D) subject to subparagraph (C), provides that, where the total of the insured loans to any student which are held by any one person exceeds $2,000, repayment of such loans shall be in installments over a period of not less than five years nor more than ten years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at an eligible institution, except that if the program provides for the insurance of loans for part-time study at eligible institutions the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;

(E) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 6 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower);

(F) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

(G) does not provide for collection of an excessive insurance premium;

(H) provides that the benefits of the loan insurance program will not be denied any student because of his family income or lack of need if his adjusted family income at the time the note or written agreement is executed is less than $15,000 (as determined pursuant to the regulations of the Commissioner prescribed under section 428 (a)(1));

(I) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution; and

(J) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under the supervision of a single State agency.

(2) Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan;

(B) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part and as are agreed to by the Commissioner and the State or nonprofit private organization or institution, as the case may be; and

(C) provide for making such reports in such form and containing such information as the Commissioner may reasonably require to carry out his function under this part and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

### CERTIFICATES OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

20 U.S.C. 1079.

SEC. 429. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a) (1) shall become effective upon the date of issuance of the certificate, except that the Commissioner is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe or pursuant to regulation.

(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Commissioner may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximim amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objective of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Commissioner and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Commissioner from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Commissioner in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Commissioner may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

(c) The Commissioner shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Commissioner. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) request for payment of the loss insured against has been made or the Commissioner has made such payment on his own motion pursuant to section 430(a).

(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Commissioner.

(e) The consolidation of the obligations of two or more federally-insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Commissioner may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Commissioner may amend that certificate accordingly.

### DEFAULT, DEATH, OR DISABILITY OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, or upon the death of the student borrower or a finding by the 20 U.S.C. 1080.

insurance beneficiary that the borrower has become totally and permanently disabled (as determined in accordance with regulations established by the Commissioner) before the loan has been repaid in full, and prior to the commencement of suit or other enforcement proceeding upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount of the loan (other than interest added to principal).

(b) Upon payment of the Commissioner of the amount of the loss pursuant to subsection (a), the United States shall be subrogated to all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Commissioner on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured.

(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner, or to preclude forbearance by the Commissioner in the enforcement of the insured obligation after payment on that insurance, or to require collection of the amount of any loan by the insurance beneficiary or by the Commissioner from the estate of a deceased borrower or from a borrower found by the insurance beneficiary to have become permanently and totally disabled.

(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally-insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(3) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) As used in this section—

(1) the term "insurance beneficiary" means the insured or its authorized assignee in accordance with section 429(d); and

(2) the term "default" includes only such defaults as have existed for (A) one hundred and twenty days in the

case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

### INSURANCE FUND

SEC. 431. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Commissioner for making payments in connection with the default of loans insured by him under this part. All amounts received by the Commissioner as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Commissioner in connection with his operations under this part, and any other moneys, property, or assets derived by the Commissioner from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Commissioner under this part shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States. 20 U.S.C. 1081.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Commissioner under this part, the Commissioner is authorized to issue to the Secretary of Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yeild on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund. 31 U.S.C. 774.

LEGAL POWERS AND RESPONSIBILITIES

20 U.S.C. 1082. SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 2679 of title 28 of the United States Code and of section 367 of the Revised Statutes (5 U.S.C.316);

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Commissioner determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Commissioner if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in this part, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance; and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) The Commissioner shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and 31 U.S.C. 841 note.

(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate

transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Commissioner, including the settlement of insurance claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

### ADVISORY COUNCIL ON INSURED LOANS TO STUDENTS

SEC. 433. (a) The Secretary shall establish in the Office of Education an Advisory Council on Insured Loans to Students, consisting of the Commissioner, who shall be Chairman, and eight members appointed, without regard to the civil service laws, by the Secretary. The membership of the Council shall include persons representing State loan insurance programs, private nonprofit loan insurance programs, financial and credit institutions, and institutions of higher education. 20 U.S.C. 1083.

(b) The Advisory Council shall advise the Commissioner with respect to policy matters arising in the administration of this part, including policies and procedures governing the making of advances under section 422 and the Federal payments to reduce student interest costs under section 428.

(c) Members of the Advisory Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

### PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans up to 10 per centum of their assets, to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C). 20 U.S.C. 1084.

### DEFINITIONS FOR REDUCED-INTEREST STUDENT LOAN INSURANCE PROGRAM

SEC. 435. As used in this part: 20 U.S.C. 1085.

(a) The term "eligible institution" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any institution outside the States which is comparable to an institution described in the preceding sentence and which has been approved by the Commissioner for the purposes of this title, and also includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation an which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(b) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree or bachelor or arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(c) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(d) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(e) The term "eligible lender" means an eligible institution, an agency or instrumentality of a State, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State.

(f) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

## DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

SEC. 436. (a) The Board of Commissioners of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this title and the National Vocational Student Loan Insurance Act of 1965 for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this title and such Act, (2) to enter into such agreements with the Commissioner, (3) to use amounts appropriated to such Board for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section. 20 U.S.C. 1086. 20 U.S.C. 981 note.

(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) There are authorized to be appropriated to such Board such amounts as may be necessary for the purposes of this section.[2]

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[2] By Sec. 13 of P.L. 89-752, the Commissioner of Education is directed to make an investigation and study to determine means of improving the loan insurance program pursuant to part B of title IV of the Higher Education Act of 1965, particularly for the purpose of making loans insured under such program more readily available to students. 20 U.S.C. 1071-1085.

The Commissioner is directed to report the results of such investigation and study, together with his recommendations for any legislation necessary to carry out such improvements, to the President and the Congress no later than January 1, 1968.

# TITLE V—EDUCATION PROFESSIONS DEVELOPMENT [3]

## PART A—GENERAL PROVISIONS

### STATEMENT OF PURPOSE

1 Stat. 82.

SEC. 501. The purpose of this title is to improve the quality of teaching and to help meet critical shortages of adequately trained educational personnel by (1) developing information on the actual needs for educational personnel, both present and long range, (2) providing a broad range of high quality training and retraining opportunities, responsive to changing man power needs; (3) attracting a greater number of qualified persons into the teaching profession; (4) attracting persons who can stimulate creativity in the arts and other skills to undertake short-term or long-term assignments in education; and (5) helping to make educational personnel training programs more responsive to the needs of the schools and colleges.[4]

### NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

81 Stat. 82.

SEC. 502. (a) The President shall, within ninety days after the enactment of this section, appoint a National Advisory Council on Education Professions Development (hereafter in this section referred to as the "Council"), for the purpose of reviewing the operation of this title and of all other Federal programs for the training and development of educational personnel, and evaluating their effectiveness in meeting needs for additional educational personnel, and in achieving improved quality in training programs as evidenced in the competency of the persons receiving such training when entering positions in the field of education. The Council shall, in addition, advise the Secretary and the Commissioner with respect to policy matters arising in the administration of this title and any other matters, relating to the purposes of this title, on which their advice may be requested.

(b) The Council shall be appointed by the President, without regard to the civil service and classification laws, and shall consist of fifteen persons. The members, one of whom shall be designated by the President as Chairman, shall include persons broadly representative of the fields of education, the arts, the sciences, and the humanities, and of the general public, and a majority of them shall be engaged in teaching or in the education of teachers.[5]

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[3] By section 9(a) of P.L. 90-35 the amendments to title V made by P.L. 90-35, as designated by citations in the margins to 81 Stat. 81-94, shall be effective with respect to fiscal years beginning after June 30, 1968, unless otherwise indicated. Section 9(b) of P.L. 90-35 provides that advance planning and dissemination of information by the Commissioner of Education shall not be precluded with respect to amendments the effective date of which is deferred by section 9(a) of P.L. 90-35. In view of possible changes in U.S. Code section numbers resulting from the revision of and additions to Title V by P.L. 90-35, citations to the U.S. Code have been omitted for the sections of this Title (formerly 20 U.S.C. 1091 et seq).

[4] By section 9(a)(2) of P.L. 90-35, the revision of section 501 shall take effect as of the date of enactment of P.L. 90-35.

[5] By section 9(a)(2) of P.L. 90-35 the revision of section 502 shall take effect as of the date of enactment of P.L. 90-35.

(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to educational personnel training) to the President and the Congress not later than January 31 of each calendar year beginning after the enactment of this section. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per day (or, if higher, the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code), including traveltime, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Council may appoint and fix the compensation of such employees as it deems necessary. The Council is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(f) There is authorized to be appropriated to carry out this section the sum of $100,000 for the fiscal year ending June 30, 1968, and the sum of $200,000 for each of the two succeeding fiscal years.

## APPRAISING EDUCATION PERSONNEL NEEDS

SEC. 503. (a) The Commissioner shall from time to time appraise the Nation's existing and future personnel needs in the field of education, including preschool programs, elementary and secondary education, vocational and technical education, adult education, and higher education, and the adequacy of the Nation's efforts to meet these needs. In developing information relating to educational personnel needs, the Commissioner shall consult with, and make maximum utilization of statistical and other related information of, the Department of Labor, the National Science Foundation, the National Foundation on the Arts and the Humanities, State educational agencies, State employment security agencies, and other appropriate public and private agencies. 81 Stat. 83.

(b) The Commissioner shall prepare and publish annually a report on the education professions, in which he shall present in detail his views on the state of the education professions and the trends which he discerns with respect to the future complexion of programs of education throughout the Nation and the needs for well-educated personnel to staff such programs. The report shall indicate the Commissioner's plans concerning the allocation of Federal assistance under this title in relation to the plans and programs of other Federal agencies.

### ATTRACTING QUALIFIED PERSONS TO THE FIELD OF EDUCATION

81 Stat. 83.

Sec. 504. (a) The Commissioner is authorized to make grants to, or contracts with, State or local educational agencies, institutions of higher education, or other public or nonprofit agencies, organizations, or institutions, and he is authorized to enter into contracts with private agencies, institutions, or organizations when he, after consultation with the National Advisory Council on Education Professions Development, considers such contract will make an especially significant contribution to attaining the objectives of this section, for the purpose of—

(1) identifying capable youth in secondary schools who may be interested in careers in education and encouraging them to pursue postsecondary education in preparation for such careers;

(2) publicizing available opportunities for careers in the field of education;

(3) encouraging qualified persons to enter or reenter the field of education; or

(4) encouraging artists, craftsmen, artisans, scientists, and persons from other professions and vocations, and homemakers to undertaking teaching or related assignments on a part-time basis or for temporary periods.

(b) There is authorized to be appropriated to carry out this section the sum of $2,500,000 for the fiscal year ending June 30, 1969, and the sum of $5,000,000 for the fiscal year ending June 30, 1970.

### CONSULTATION

81 Stat. 84.

Sec. 505. In the development and review of grant and contract programs under this title the Commissioner shall consult with the National Science Foundation and the National Foundation on the Arts and the Humanities to promote coordinated planning of programs to train educational personnel.

### TRANSFER OF FUNDS

81 Stat. 84.
-0 U.S.C. 1143.

Sec. 506. In addition to the authority for utilization of other agencies conferred by section 803(b) of this Act, funds available to the Commissioner for grants or contracts under this title shall, with the approval of the Secretary, be available for transfer to any other Federal agency for use (in accordance with an interagency agreement) by such agency (alone or in combination with funds of that agency) for purposes for which such transferred funds could be otherwise expended by the Commissioner under the provisions of this title, and the Commissioner is likewise authorized to accept and expend funds of any other Federal agency for use under this title.

### EXPERTS AND CONSULTANTS

81 Stat. 84.

Sec. 507. The Commissioner may employ experts and consultants, as authorized by section 3109 of title 5, United States Code, to advise him with respect to the making of grants and contracts and the approving of programs under this title.

Experts and consultants employed pursuant to this section may be compensated while so employed at rates not in excess of $100 per day (or, if higher, the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code), including traveltime, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code,for persons in the Government service employed intermittently.[6]

### LIMITATION

SEC. 508. Nothing contained in this title shall be construed to authorize the making of any payment under this title for religious worship or instruction or training for a religious vocation or to teach theological subjects.[7]

81 Stat. 82.

81 Stat. 93.

### SHORT TITLE

SEC. 509. This title may be cited as the "Education Professions Development Act."[8]

81 Stat. 93.

## PART B—ATTRACTING AND QUALIFYING TEACHERS

### Subpart 1—Teacher Corps

### STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 511. (a) The purpose of this subpart is to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation by—

(1) attracting and training qualified teachers who will be made available to local educational agencies for teaching in such areas; and

(2) attracting and training inexperienced teacher-interns who will be made available for teaching and inservice training to local educational agencies in such areas in teams led by an experienced teacher.

(b) For the purpose of carrying out this subpart, there are authorized to be appropriated $36,100,000 for the fiscal year ending June 30, 1966, $64,715,000 for the fiscal year ending June 30, 1967, $33,000,000 for the fiscal year ending June 30, 1968, $46,000,000 for the fiscal year ending June 30, 1969, and $56,000,000 for the fiscal year ending June 30, 1970, respectively; and there are further authorized to be appropriated such sums for the fiscal year ending June 30, 1971, as may be necessary to enable any teacher-intern who has not completed his

81 Stat. 85.

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[6] By section 9(a)(3) of P.L. 90-35 section 507 shall take effect as of the date of enactment of P.L. 90-35.

[7] By section 9(a)(4) of P.L. 90-35 the revision of section 508 made by P.L. 90-35 shall take effect on the date of enactment of P.L. 90-35.

[8] By section 9(a)(4) of P.L. 90-35 the addition of section 509 shall take effect on the date of enactment of P.L. 90-35.

program of practical and academic training to continue such program for a period of not more than one additional year.[9]

### ESTABLISHMENT OF TEACHER CORPS

20 U.S.C. 1102. SEC. 512. In order to carry out the purposes of this subpart, there is hereby established in the Office of Education a National Teacher Corps (hereinafter referred to as the "Teacher Corps"). The Teacher Corps shall be headed by a Director who shall be compensated at the rate prescribed for grade 17 of the General Schedule of the Classification Act of 1949, and a Deputy Director who shall be compensated at the rate prescribed for grade 16 of such General Schedule. The Director and the Deputy Director shall perform such duties as are delegated to them by the Commissioner. 5 U.S.C. 5332.

### TEACHER CORPS PROGRAM

81 Stat. 85. SEC. 513. (a) For the purpose of carrying out this subpart, the Commissioner is authorized to—

(1) enter into contracts or other arrangements with institutions of higher education or local educational agencies under which they will recruit, select, and enroll in the Teacher Corps for periods of up to two years, experienced teachers, persons who have a bachelor's degree or its equivalent, and persons who have successfully completed two years of a program for which credit is given toward a baccalaureate degree;

(2) enter into arrangements, through grants or contracts with institutions of higher education or local educational agencies (upon approval in either case by the appropriate State educational agency) or with State educational agencies to provide members of the Teacher Corps with such training as the Commissioner may deem appropriate to carry out the purpose of this subpart, including not more than three months of training for members before they undertake their teaching duties under this subpart;

(3) enter into arrangements (including the payment of the cost of such arrangements) with local educational agencies upon approval by the appropriate State educational agency and, after consultation in appropriate cases with institutions of higher education, to furnish to local educational agencies, for service during regular or summer sessions, or both, in the schools of such agencies in areas having concentrations of children from low-income families, teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher in cooperation with an institution of higher education;

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[9] By section 9(a)(4) of P.L. 90-35 the revision of subsection (b) of section 511 made by P.L 90-35 shall take effect on the date of enactment of P.L. 90-35.

(4) pay to local educational agencies such part of the amount of the compensation which such agencies pay to or on behalf of members of the Teacher Corps assigned to them pursuant to arrangements made pursuant to the preceding clause as may be agreed upon after consideration of their ability to pay such compensation, but not in excess of 90 per centum thereof, except that, in exceptional cases, the Commissioner may provide more than 90 per centum of such compensation during the first year of any agency's participation in the program;

(5) make available technical assistance to local educational agencies and institutions of higher education for carrying out arrangements entered into under clause (1);

(6) acquaint qualified persons of teaching opportunities and needs in disadvantaged areas and encourage qualified persons to apply to appropriate educational agencies or institutions for enrollment in the Teacher Corps; and

(7) accept and employ in the furtherance of the purposes of this subpart (A) voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes, as amended (31 U.S.C. 665(b)), and (B) any money or property (real, personal, or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise.[10]

(b) Arrangements with institutions of higher education to provide training for teacher-interns while teaching in schools for local educational agencies under the provisions of this part shall provide, wherever possible, for training leading to an appropriate degree.[11]

81 Stat. 86.

(c)(1) Whenever the Commissioner determines that the demand for the services of members of the Teacher Corps exceeds the number available, he shall, to the extent practicable, allocate the number of members of the Teacher Corps who are available among the States in accordance with paragraph (2).

(2) Not to exceed 3 per centum of the number of members of the Teacher Corps who are available shall be allocated to Puerto Rico, the Virgin Islands, and elementary and secondary schools operated for Indian children by the Department of the Interior, according to their respective needs. The remainder of such number of Teacher Corps members shall be allocated among the States so that the number of members available to any State shall bear the same ratio to the number being allocated as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Puerto Rico or the Virgin Islands.

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[10] By section 9(a)(4) of P.L. 90-35 the revision of section 513(a) made by P.L. 90-35 shall take effect on the date of enactment of P.L. 90-35.

[11] By section 9(a)(4) of P.L. 90-35 the revision of section 513(b) made by P.L. 90-35 shall take effect on the date of enactment of P.L. 90-35.

(3) If the Commissioner determines that a State will not require the number of Teacher Corps members allocated to it under paragraph (2), he shall, from time to time, reallot the number not required, on such dates as he may fix, to other States in proportion to the original allocation to such States under paragraph (2), but with such proportionate number for any such other States being reduced to the extent it exceeds the number the Commissioner determines such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate numbers were not so reduced. [12]

(d) A local educational agency may utilize members of the Teacher Corps assigned to it in providing, in the manner described in section 205(a)(2) of Public Law 874, Eighty-first Congress, as amended, educational services in which children enrolled in private elementary and secondary schools can participate.

### COMPENSATION

Sec. 514. (a) An arrangement made with a local educational agency pursuant to paragraph (3) of section 513(a) shall provide for compensation by such agency of Teacher Corps members during the period of their assignment to it at the following rates:

81 Stat. 86.

(1) an experienced teacher who is leading a teaching team shall be compensated at a rate agreed to by such agency and the Commissioner; and

(2) a teacher-intern shall be compensated at a rate which is equal to the lowest rate paid by such agency for teaching full time in the school system and grade to which the intern is assigned, or $75 per week plus $15 per week for each dependent, whichever is less [13]

(b) For any period of training under this subpart the Commissioner shall pay to members of the Teacher Corps such stipends (including allowances for subsistence and other expenses for such members and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported training programs.

(c) The Commissioner shall pay the necessary travel expenses of members of the Teachers Corps and their dependents and necessary expenses for the transportation of the household goods and personal effects of such members and their dependents and such other necessary expenses of members as are directly related to their service in the Corps, including readjustment allowances proportionate to service.

(d) The Commissioner is authorized to make such arrangements as may be possible, including the payment of any costs incident thereto, to protect the tenure, retirement rights, participation in a medical insurance program, and such other similar employee benefits as the Commissioner deems appropriate, of a member of the Teacher Corps who participates in any program under this subpart and who indicates his intention to return to the local educational agency or institution of higher education by which he was employed immediately prior to his service under this subpart.

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[12] By section 9(a)(4) of P.L. 90-35 the revision of section 513(c) made by P.L. 90-35 shall take effect on the date of enactment of P.L. 90-35.

[13] By section 9(a)(4) of P.L. 90-35 the revision of section 514(a) made by P.L. 90-35 shall take effect on the date of enactment of P.L. 90-35. By sec. 3(g)(2) of P.L. 90-35 the revision of sec. 514(a) shall not apply to any person enrolled in the Teacher Corps before the date of enactment of P.L. 90-35.

### APPLICATION OF PROVISIONS OF FEDERAL LAW

SEC. 515. (a) Except as otherwise specifically provided in this section, a member of the Teacher Corps shall be deemed not to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits. 20 U.S.C. 1105.

(b)(1) Such members shall, for the purposes of the administration of the Federal Employees' Compensation Act (5 U.S.C. 751 et seq.), be deemed to be civil employees of the United States within the meaning of the term "employee" as defined in section 40 of such Act (5 U.S.C. 790) and the provisions thereof shall apply except as hereinafter provided.

(2) For purposes of this subsection:

(A) the term "performance of duty" in the Federal Employees' Compensation Act shall not include any act of a member of the Teacher Corps—

(i) while on authorized leave; or

(ii) while absent from his assigned post of duty, except while participating in an activity authorized by or under the direction or supervision of the Commissioner; and

(B) in computing compensation benefits for disability or death under the Federal Employees' Compensation Act, the monthly pay of a member of the Teacher Corps shall be deemed to be his actual pay or that received under the entrance salary for grade 6 of the General Schedule of the Classification Act of 1949, whichever is greater. 5 U.S.C. chap. 81.*

(c) Such members shall be deemed to be employees of the Government for the purposes of the Federal tort claims provisions of title 28, United States Code. 28 U.S.C. 2671-2680.

(d) Members of the Teacher Corps shall not be eligible to receive payment of a student loan under title II of the National Defense Education Act of 1958 or of an educational opportunity grant under title IV of this Act.[14] 81 Stat. 87. 20 USC 421-429.

### LOCAL CONTROL PRESERVED

SEC. 516. Members of the Teacher Corps shall be under the direct supervision of the appropriate officials of the local educational agencies to which they are assigned. Except as otherwise provided in clause (3) of section 513(a), such agencies shall retain the authority to—

(1) assign such members within their systems;

(2) make transfers within their systems;

(3) determine the subject matter to be taught;

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[14] By section 9(a)(4) of P.L. 90-35 the addition of subsection (d) to section 515 shall take effect on the date of enactment of P.L. 90-35.

(4) determine the terms and continuance of the assignment of such members within their systems.

### MAINTENANCE OF EFFORT

SEC. 517. No member of the Teacher Corps shall be furnished to any local educational agency under the provisions of this subpart if such agency will use such member to replace any teacher who is or would otherwise be employed by such agency.

### TEACHING CHILDREN OF MIGRATORY AGRICULTURAL WORKERS

81 Stat.37.

SEC. 517A. For purposes of this part the term "local educational agency" includes any State educational agency or other public or private nonprofit agency which provides a program or project designed to meet the special educational needs of migratory children of migratory agricultural workers, and any reference in this part to (1) teaching in the schools of a local educational agency includes teaching in any such program or project and (2) "migratory children of migratory agricultural workers" shall be deemed to continue to refer to such children for a period, not in excess of five years, during which they reside in the area served by the local educational agency.[15]

## Subpart 2—Attracting and Qualifying Teachers to Meet Critical Teacher Shortages

### APPROPRIATIONS AUTHORIZED

81 Stat. 87.

SEC. 518. (a) The Commissioner shall carry out during the fiscal year ending June 30, 1969, and the succeeding fiscal year, a program for making grants to States to enable them to support the efforts of local communities experiencing critical teacher shortages to (1) attract to teaching persons in the community who have been otherwise engaged and to provide them, through short-term intensive training programs and subsequent in-service training, with the qualifications necessary for a successful career in teaching, and (2) obtain the services of teacher aides and provide them with the necessary training with a view to increasing the effectiveness of classroom teachers.

(b) For the purpose of making grants under this subpart, there are hereby authorized to be appropriated the sum of $50,000,000 for the fiscal year ending June 30, 1969, and $65,000,000 for the fiscal year ending June 30, 1970.

### ALLOTMENT TO STATES

81 Stat. 88.

SEC. 519. (a) From the sums appropriated pursuant to section 518(a), the Commissioner shall reserve such amount, but not in excess of 3 per centum thereof, as he may determine and shall allot such amount among Puerto Rico, Guam, American Samoa, the Virgin Islands, the Canal Zone, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subpart. From the remainder of such sums, the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Canal Zone, and the Trust Territory of the Pacific Islands.

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[15] By section 9(a)(4) of P.L. 90-35 the addition of section 517A shall take effect on the date o enactment of P.L. 90-35.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated pursuant to section 519 shall be deemed part of its allotment under subsection (a) for such year.

### STATE PLANS

SEC. 520. (a) Any State which desired to receive grants under this subpart shall submit to the Commissioner, through its State educational agency, a State plan, in such detail as the Commissioner deems necessary, which— 81 Stat. 88.

(1) designates the State educational agency as the sole State agency for administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotment under section 520 will be expended solely for (A) programs of local educational agencies to attract to teaching, persons in the community who have been otherwise engaged and to provide short-term intensive training and subsequent in-service training to qualify such persons for teaching, (B) programs of such agencies to obtain the services of teacher aides and to provide them with the preservice or in-service training they need to perform their duties as teacher aides, and (C) administration of the State plan, except that the amount used for administration of the State plan for any fiscal year shall not exceed an amount equal to 3 per centum of the amount paid to the State under this subpart for that year;

(3) provides assurance that every local educational agency whose application for funds under the plan is denied will be given an opportunity for a fair hearing before the State educational agency;

(4) sets forth the policies and procedures to be followed in allocating Federal funds to local educational agencies in the State, which policies and procedures shall ensure that such funds will be allocated to local educational agencies having the most urgent need for teachers and teacher aides;

(5) provides that training under a program described in paragraph (2)(A) will be provided only to persons who will, upon completion of their short-term training, have the qualifications for teaching in elementary or secondary schools in the community, and that training under a program described in paragraph (2)(B) will be provided only to persons who show promise of being able with appropriote training to serve competently as a teacher aide;

(6) provides assurances that not more than one-third of the sums expended under this Act will be used to support programs described in paragraph (2)(B);

(7) provides assurance that no person will be denied admission to training programs carried on under this subpart because he is preparing to teach or serve as a teacher aide in a private school;

(8) sets forth policies and procedures designed to assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement, and not supplant, funds which are available from State or local sources for purposes for which grants may be made under this subpart;

(9) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any such funds paid by the State to any other public agency) under this subpart; and

(10) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subpart, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

PAYMENTS TO STATES

81 Stat. 89.

SEC. 520A. From the amounts allotted to each State under section 519 the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

ADMINISTRATION OF STATE PLANS

81 Stat. 89.

SEC. 520B. (a) The Commissioner shall not finally disapprove any State plan submitted under this subpart or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

(1) that the State plan has been so changed that it no longer complies with the provisions of section 520(a), or

(2) that in the administration of the plan there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

### JUDICIAL REVIEW

SEC. 520C. (a) If any State is dissatisfied with the Commissioner's 81 Stat. final action with respect to the approval of its State plan submitted under section 520(a) or with his final action under section 520B (b), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(d) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

## PART C—FELLOWSHIPS FOR TEACHERS AND RELATED EDUCATIONAL PERSONNEL

### STATEMENT OF PURPOSE

SEC. 521. The Congress hereby declares it to be the policy of the United States to improve the quality of education offered by the schools of the Nation by improving the quality of the education of persons who are pursuing or who plan to pursue a career in elementary and secondary education or postsecondary vocational education. The purpose of this part is to carry out 81 Stat. 90. this policy by awarding fellowships for graduate study at institutions of higher education and by developing or strengthening 81 Stat. 90. programs for the education of teachers and related educa-

81 Stat. 90. tional personnel in institutions of higher education. For the purposes
of this part the term "elementary and secondary education"
includes preschool and adult and vocational education,
and the term "career in elementary and secondary education or
postsecondary vocational education" means a career of teaching
in elementary or secondary schools (including teaching in preschool
and adult and vocational education programs (and
81 Stat. 820. including teaching children of limited English-speaking ability[16]))
or in postsecondary vocational schools, a career of
teaching, guiding, or supervising such teachers or persons who
plan to become such teachers, or a career in fields which are
directly related to teaching in such schools, such as library
science, school social work, guidance and counseling, educational
media (including educational and instructional television
81 Stat. 90. and radio), child development and special education for handicapped
children.

FELLOWSHIPS AUTHORIZED

81 Stat. 91. SEC. 522. The Commissioner is authorized to award fellowships in accordance with the provisions of this part for graduate study leading to an advanced degree for persons who are pursuing or plan to pursue a career in elementary and secondary education or postsecondary vocational education.[17]

ALLOCATION OF FELLOWSHIPS

SEC. 523. The Commissioner shall allocate fellowships under this part to institutions of higher education with programs-approved under the provisions of section 524(a) for the use of individuals accepted into such programs, in such manner and according to such plan as will most nearly—

(1) provide an equitable distribution of such fellowships
throughout the States, except that to the extent he deems
proper in the national interest after consultation with the
81 Stat. 91. National Advisory Council on Education Professions
Development the Commissioner may give preference to
programs designed to meet an urgent national need, and

(2) encourage experienced teachers in elementary or secondary schools or Postsecondary Vocational Schools and other experienced personnel in elementary or secondary education or Postsecondary Vocational Education, to enter graduate programs, attract recent college graduates to pursue a career in elementary and secondary education or postsecondary vocational education, and afford opportunities for college graduates engaged in other occupations or activities to pursue or return to a career in elementary and secondary education or post secondary vocational
81 Stat. 91. education.

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[16] By section 704 of P.L. 90-247 the addition of the phrase "and including teaching children of limited English-speaking ability" in the third sentence of section 521 shall be effective with respect to fiscal years after the fiscal year ending June 30, 1968. Section 704 provides that, effective for the fiscal year ending June 30, 1968, only. The phrase "a career of teaching children of limited English-speaking ability" shall be inserted after the phrase "a career of teaching in elementary or secondary schools" in such third sentence.

[17] By section 704(b) of P.L. 90-247, the number of fellowships which may be awarded under the provisions of section 522, prior to the amendment thereof made by P.L 90-35, is increased from ten thousand to eleven thousand and such specified number is applicable only to the fiscal year ending June 30, 1968.

### APPROVAL OF PROGRAMS; GRANTS

SEC. 524. (a) The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon his finding—

(1) that such program will substantially further the objective of improving the quality of education of persons who are pursuing or intend to pursue a career in elementary and secondary education.

(2) that such program gives emphasis to high-quality substantive courses,

(3) that such program is of high quality and either is in effect or readily attainable, and

(4) that only persons who demonstrate a serious intent to pursue or to continue a career in elementary and secondary education will be accepted for study in the program.

(b) For the purpose of obtaining an appropriate geographical distribution of high-quality programs for the training of personnel for elementary or secondary education, the Commission is authorized to make grants to and contracts with institutions of higher education to pay part of the cost of developing or strengthening graduate programs which meet or, as a result of assistance received under this subsection will be enabled to meet, the requirements of subsection (a).[18] 81 Stat. 91.

### STIPENDS

SEC. 525. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be appropriate, not to exceed the equivalent of $2,500 per academic year, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. 81 Stat. 91.

### LIMITATION

SEC. 526. No fellowships shall be awarded under this part for study at a school or department of divinity. For the purposes of this section, the term "school or department of divinity" means an institution or department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

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[18] By section 9(a)(3) of P.L. 90-35 subsection (c) of section 524, dealing with experts and consultants, is repealed effective as of the date of enactment of P.L. 90-35. See section 507 which deals with experts and consultants.

### FELLOWSHIP CONDITIONS

SEC. 527. A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in section 525(a) only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than such part-time employment in teaching, research, or similar activities related to this training as has been approved by the Commissioner.

### APPROPRIATIONS

SEC. 528. There are hereby authorized to be appropriated to carry out this part $40,000,000 for the fiscal year ending June 30, 1966, $160,000,000 for the fiscal year ending June 30, 1967, 81 Stat. 91. $285,000,000 for the fiscal year ending June 30, 1968, 81 Stat. 820. $205,000,000 for the fiscal year ending June 30, 1969, and $250,000,000 for the fiscal year ending June 30, 1970, and such sums for the two succeeding fiscal years as may be necessary to enable persons who have been awarded fellowships prior to 81 Stat. 820. July 1, 1970, to complete their study under the fellowships[19]

## PART D—IMPROVING TRAINING OPPORTUNITIES FOR PERSONNEL SERVING IN PROGRAMS OF EDUCATION OTHER THAN HIGHER EDUCATION

81 Stat. 91.

### ADVANCED TRAINING AND RETRAINING

SEC. 531. (a) The Commissioner is authorized to make grants to, or contracts with, institutions of higher education and State educational agencies, and to make grants to, or contracts with, local educational agencies if, after consultation with the State educational agency, such State agency is satisfied that the program or project will be coordinated with programs carried on under part B, for carrying out programs or projects to improve the qualifications of persons who are serving or preparing to serve in educational programs in elementary and secondary schools (including preschool and adult and vocational education programs) or postsecondary vocational schools or to supervise or train persons so serving.

(b) Programs or projects under this section may include, among others—

(1) programs or projects to train or retrain teachers, or supervisors or trainers of teachers, in any subject generally taught in the schools;

(2) programs or projects to train or retrain other educational personnel in such fields as guidance and counseling (including occupational counseling), school social work, child psychology, remedial speech and reading, child

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[19] By section 704(c)(2) of P.L. 90-247 the amendments made to section 528 by P.L. 90-247 shall be effective with respect to fiscal years beginning after June 30, 1967.

development, and educational media (including educational or instructional television or radio);

(3) programs or projects to train teacher aides and other nonprofessional educational personnel;

(4) programs or projects to provide training and preparation for persons participating in educational programs for children of preschool age;

(5) programs or projects to prepare teachers and other educational personnel to meet the special needs of the socially, culturally, and economically disadvantaged;

(6) programs or projects to prepare teachers and other educational personnel to meet the special needs of exceptionally gifted students;

(7) programs or projects to train or retrain persons engaging in programs of special education for the handicapped;

(8) programs or projects to train or retrain persons engaging in special educational programs for children of limited English-speaking ability; 81 Stat. 820.

(9) programs or projects to provide inservice and other training and preparation for school administrators;

(10) programs or projects to prepare artists, craftsmen, scientists, artisans, or persons from other professions or vocations, or homemakers to teach or otherwise assist in programs or projects of education on a long-term, short-term, or part-time basis.

(c) Grants or contracts under this section may provide for use of funds received thereunder only to pay the cost of—

(1) short-term or regular-session institutes; or

(2) other preservice and inservice training programs or projects designed to improve the qualifications of persons entering and reentering the field of elementary and secondary education or postsecondary vocational education, except that funds may not be used for seminars, symposia, workshops or conferences unless these are part of a continuing program of inservice or preservice training.

(d) The Commissioner may include in the terms of any grant or contract under this section provisions authorizing the payment, to persons participating in training programs supported under this section, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs.

### APPROPRIATIONS AUTHORIZED

SEC. 532. There is authorized to be appropriated to carry out this part the sum of $70,000,000 for the fiscal year ending June 30, 1969, and the sum of $90,000,000 for the fiscal year ending June 30, 1970. 81 Stat. 92.

81 Stat. 93.

## PART E—TRAINING PROGRAMS FOR HIGHER EDUCATION PERSONNEL

### PROGRAMS AND PROJECTS

SEC. 541. (a) The Commissioner is authorized to make grants to, or contracts with, institutions of higher education to assist them in training persons who are serving or preparing to serve as teachers, administrators, or educational specialists in institutions of higher education.

(b) Grants or contracts under this section may provide for use of funds received there under only to assist in covering the cost of courses of training or study (including short-term or regular-session institutes and other preservice and inservice training programs) for such persons, and for establishing and maintaining fellowships or traineeships, except that funds may not be used for fellowships which are eligible for support under title IV of the National Defense Education Act of 1958, or for seminars, conferences, symposia, and workshops unless these are part of a continuing program of inservice or preservice training. 20 USC 461-465.

(c) The Commissioner may make a grant to or enter into contract with an institution of higher education only upon application by the institution and only upon his finding that such program will substantially improve educational opportunities throughout the Nation for training for persons who have or are preparing to undertake teaching or administrative responsibilities in institutions of higher education or the responsibilities of an educational specialist in such institution.

### STIPENDS

81 Stat. 93.

SEC. 542. The Commissioner may include in the terms of any arrangement with an institution of higher education under this part provisions authorizing the payment, to persons participating in training programs supported under this part, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs.

### APPROPRIATIONS AUTHORIZED

81 Stat. 93.

SEC. 543. There is authroized to be appropriated to carry out this part the sum of $21,500,000 for the fiscal year ending June 30, 1969, and the sum of $36,000,000 for the fiscal year ending June 30, 1970.

# TITLE VI—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

## PART A—EQUIPMENT

### STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. (a) The purpose of this part is to improve the quality of classroom instruction in selected subject areas in institutions of higher education. 20 U.S.C. 1121.

(b) There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1966, $50,000,000 for the fiscal year ending June 30, 1967, and $60,000,000 for the fiscal year ending June 30, 1968, to enable the Commissioner to make grants to institutions of higher education pursuant to this part for the acquisition of equipment and for minor remodeling described in section 603(2)(A).

(c) There are also authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1966, and $10,000,000 for the fiscal year ending June 30, 1967, and for the succeeding fiscal year, to enable the Commissioner to make grants to institutions of higher education pursuant to this part for the acquisition of television equipment and for minor remodeling described in section 603(2)(B).

(d) For the fiscal year ending June 30, 1969, and for the succeeding fiscal year, there may be appropriated for the purposes set forth in subsections (b) and (c) of this section, only such sums as the Congress may hereafter authorize by law.

### ALLOTMENTS TO STATES

SEC. 692. (a) (1) Of the funds appropriated pursuant to subsections (b) and (c) of section 601 for any fiscal year one-half shall be allotted by the Commissioner among the States so that the allotment to each State will be an amount which bears the same ratio to such one-half as the number of students enrolled in institutions of higher education in such State bears to the total number of students enrolled in such institutions in all the States; and the remaining one-half shall be allotted by him among the States in accordance with paragraph (2) of this subsection. For purposes of this subsection, (A) the number of students enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him. 20 U.S.C. 1122.

(2) For the purposes of this paragraph the Commissioner shall allot to each State for each fiscal year an amount which bears the same ratio to the funds being allotted pursuant to this paragraph as the product of—

(A) the number of students enrolled in institutions of higher education in such State, and

(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States. For the purposes of this paragraph the allotment ratio for any State shall be 1.00 less the product of (i) 0.50 and (ii) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, and Guam), except that the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, and the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, and Guam shall be 0.66⅔. The allotment ratios shall be promulgated by the Commissioner as soon as possible after enactment of this Act, and annually thereafter, on the basis of the average of the incomes person of the States and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

(b)(1) A State's allotment under subsection (a) from funds appropriated pursuant to section 601(b) shall be available in accordance with the provisions of this part for payment of the Federal share (as determined under section 604) of the cost of equipment and minor remodeling described in section 603(2)(A).

(2) A State's allotment under subsection (a) from funds appropriated pursuant to section 601(c) shall be available in accordance with the provisions of this part for payment of the Federal share (as determined under section 604) of the cost of television equipment and minor remodeling described in section 603(2)(B).

(c) Sums allotted to a State for the fiscal year ending June 30, 1966, shall remain available for reservation as provided in section 606 until the close of the next fiscal year, in addition to the sums allotted to such State for such next fiscal year. Sums allotted to a State for the fiscal year ending June 30, 1967, or for any succeeding fiscal year, which are not reserved as provided in section 606 by the close of the fiscal year for which they are allotted, shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

### STATE COMMISSIONS AND PLANS

20 U.S.C. 1123.

Sec. 603. Any State desiring to participate in the program under this part shall designate for that purpose an existing State agency which is broadly representative of the public and of institutions of higher education in the State, or, if no such State agency exists, shall establish such a State agency, and submit to the Commissioner through the agency so designated or established (hereafter in this part referred to as the "State commission"), a State plan for such participation. The Commissioner shall approve any such plan which—

(1) provides that it shall be administered by the State commission;

(2) sets forth, consistently with basic criteria prescribed by regulation pursuant to section 604, objective standards and methods (A) for determining the relative priorities of eligible projects for the acquisition of laboratory and other special equipment (other than supplies consumed in use) including audio-visual materials and equipment for classrooms or audio-visual centers, and printed and published materials (other than textbooks) for classrooms or libraries suitable for use in providing education in science mathematics, foreign languages, history, geography, government, English, other humanities, the arts, or education at the undergraduate level in institutions of higher education, and minor remodeling of classroom or other space used for such materials or equipment; (B) for determining relative priorities of eligible projects for (i) the acquisition of television equipment for closed-circuit direct instruction in such fields in such institutions (including equipment for fixed-service instructional television, as defined by the Federal Communications Commission, but not including broadcast transmission equipment), (ii) the acquisition of necessary instructional materials for use in such television instruction, and (iii) minor remodeling necessary for such television equipment; and (C) for determining the Federal share of the cost of each such project;

(3) provides (A) for assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State commission and deemed by it to be otherwise approvable under the provisions of this part; and (B) for approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects and for certifying to the Commissioner the Federal share, determined by the State commission under the State plan, of the cost of the project involved;

(4) provides for affording to every applicant, which has submitted to the Station commission a project, an opportunity for a fair hearing before the commission as to the priority assigned to such project or as to any other determination of the commission adversely affecting such applicant; and

(5) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State commission under this part, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

### BASIC CRITERIA FOR DETERMINING PRIORITIES, FEDERAL SHARE, AND MAINTENANCE OF EFFORT

20 U.S.C. 1124.

SEC. 604. (a) As soon as practicable after the enactment of this Act the Commissioner shall by regulation prescribe basic criteria to which the provisions of State plans setting forth standards and methods for determining relative priorities of eligible projects, and the application of such standards and methods to such projects under such plans, shall by subject. Such basic criteria (1) shall be such as will best tend to achieve the objectives of this part while leaving opportunity and flexibility for the development of State plan standards and methods that will best accommodate the varied needs of institutions in the several States, and (2) shall give special consideration to the financial need of the institution. Subject to the foregoing requirements, such regulations may establish additional and appropriate basic criteria, including provision for considering the degree to which applicant institutions are effectively utilizing existing facilities and equipment, provision for allowing State plans to group or provide for grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes, and, in view of the national objectives of this Act, provision for considering the degree to which the institution serves students from two or more States or from outside the United States; and in no event shall an institution's readiness to admit such out-of-State students be considered as a priority factor adverse to such institution.

(b) The Federal share for the purposes of this part shall not exceed 50 per centum of the cost of the project, except that a State commission may increase such share not to exceed 80 per centum of such cost in the case of any institution proving insufficient resources to participate in the program under this part and inability to acquire such resources. An institution of higher education shall be eligible for a grant for a project pursuant to this part in any fiscal year only if such institution will expend from current funds for instructional and library purposes, other than personnel costs, during such fiscal year an amount not less than the amount expended by such institution from current funds for such purposes during the previous fiscal year.

### APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

20 U.S.C. 1125.

SEC. 605. (a) Institutions of higher education which desire to obtain grants under this part shall submit applications therefor at such time or times and in such manner as may be prescribed by the Commissioner, and such applications shall contain such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to make the determinations required to be made by him under this part.

(b) The Commissioner shall approve an application covering a project under this part and meeting the requirements prescribed pursuant to subsection (a) if—

(1) the project has been approved and recommended by the appropriate State commission;

(2) the State commission has certified to the Commissioner, in accordance with the State plan, the Federal share of the cost of the project, and sufficient funds to pay such Federal share are available from the applicable allotment of the State (including any applicable reallotment to the State);

(3) the project has, pursuant to the State plan, been assigned a priority that is higher than that of all other projects within such State (chargeable to the same allotment) which meet all the requirements of this section (other than this clause) and for which Federal funds have not yet been reserved;

(4) the Commissioner determines that the project will be undertaken in an economical manner and will not be overly elaborate or extravagant; and

(5) the Commissioner determines that the application contains or is supported by satisfactory assurances—

(A) that Federal funds received by the applicant will be used solely for defraying the cost of the project covered by such application.

(B) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the equipment upon completion, and

(C) that the institution will meet the maintenance of effort requirement in section 604(b).

(b) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

### AMOUNT OF GRANT—PAYMENT

SEC. 606. Upon his approval of any application for a grant under this part, the Commissioner shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such grant, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the project covered by such application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application covering such project or upon revision of the estimated cost of a project with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval. 20 U.S.C. 1126.

### ADMINISTRATION OF STATE PLANS

SEC. 607. (a) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification 20 U.S.C. 1127.

thereof, without first affording the State commission submitting the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State commission administering a State plan approved under this part, finds—

(1) that the State plan has been so changed that it no longer complies with the provisions of section 603, or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

### JUDICIAL REVIEW

20 U.S.C. 1128.

SEC. 608. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under this part or with his final action under section 607, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

### LIMITATION ON PAYMENTS

20 U.S.C. 1129.

SEC. 609. No grant may be made under this part for equipment or materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity. For purposes of this section the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

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## PART B—FACULTY DEVELOPMENT PROGRAMS

### INSTITUTES AUTHORIZED

**SEC. 621.** (a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1966, and for each of the two succeeding fiscal years, to enable the Commissioner to arrange, through grants or contracts, with institutions of higher education for the operation by them of short-term workshops or short-term or regular-session institutes for individuals (1) who are engaged in, or preparing to engage in, the use of educational media equipment in teaching in institutions of higher education, or (2) who are, or are preparing to be, in institutions of higher education, specialists in educational media or librarians or other specialists using such media. 20 U.S.C. 1131.

(b) For the fiscal year ending June 30, 1969, and for the succeeding fiscal year, there may be appropriated for the purposes of this part, only such sums as the Congress may hereafter authorize by law.

### STIPENDS

**SEC. 622.** Each individual who attends an institute operated under the provisions of this part shall be eligible (after application therefor) to receive a stipend at the rate of $75 per week for the period of his attendance at such institute and each such individual with one or more dependents shall receive an additional stipend at the rate of $15 per week for each dependent. No stipends shall be paid for attendance at workshops. 20 U.S.C. 1132.

## TITLE VII—AMENDMENTS TO HIGHER EDUCATION FACILITIES ACT OF 1963

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## TITLE VIII—GENERAL PROVISIONS

### DEFINITIONS

**SEC. 801.** As used in this Act— 20 U.S.C. 1141.

(a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any business school or technical institution which meets the provisions of clauses (1), (2), (4), and (5). For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands.

(c) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) The term "secondary school" means a school which provides secondary education as determined under State law except that it does not include any education provided beyond grade 12.

(e) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(f) The term "Commissioner" means the Commissioner of Education.

(g) The term "local educational agency" means a public school board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(i) The term "elementary school" means a school which provides elementary education including education below grade 1, as determined under State law.

### METHOD OF PAYMENT

20 U.S.C. 1142.

SEC. 802. Payments under this Act to any individual or to any State or Federal agency, institution of higher education, or any other organizations, pursuant to a grant, loan, or contract, may be made in installments, and in advance or by way of reimbursement, and, in the case of grants or loans, with necessary adjustments on account of overpayments or underpayments.

### FEDERAL ADMINISTRATION

20 U.S.C. 1143.

SEC. 803. (a) The Commissioner is authorized to delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution, in accordance with agreements between the Secretary and the head thereof.

### FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 804. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, or over the selection of library resources by any educational institution. 20 U.S.C. 1144.

(b) Nothing contained in this Act or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at an institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institution.

## Legislative History

### HIGHER EDUCATION ACT OF 1965, AS AMENDED THROUGH THE NINETIETH CONGRESS, FIRST SESSION

*89th Congress*

(P.L. 89-329)

H.R. 9567:
- House reports: No. 621 (Committee on Education and Labor) and No. 1178 (committee of conference).
- Senate Report No. 673 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 111 (1965):
  - Aug. 26: Considered and passed House.
  - Sept. 1: Considered in Senate.
  - Sept. 2: Considered and passed Senate, amended.
  - Oct. 20: House and Senate agreed to conference report.

(P.L. 89-698)

H.R. 14643:
- House Report No. 1539 (Committee on Education and Labor).
- Senate Report No. 1715 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 112 (1966):
  - June 6: Considered and passed House.
  - Oct. 13: Considered and passed Senate, amended.
  - Oct. 21: House concurred in Senate amendment with an amendment; Senate concurred in House amendment.

(P.L. 89-752)

H.R. 14644:
- House reports: No. 1467 (Committee on Education and Labor) and No. 2326 (committee of conference).
- Senate Report No. 1677 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 112 (1966):
  - May 22: Considered and passed House.
  - Oct. 7: Considered in Senate.
  - Oct. 10: Considered and passed Senate, amended.
  - Oct. 21: House and Senate agreed to conference report.

*90th Congress*

(P.L. 90-35)

**H.R. 10943:**

House Report No. 373 (Committee on Education and Labor).
Senate Report No. 363 accompanying S. 2028 (Committee on Labor and Public Welfare).
Congressional Record, vol. 113 (1967):
- June 26: Considered in House.
- June 27: Considered and passed House.
- June 28: Considered and passed Senate, in lieu of S. 2028.

(P.L. 90-247)

**H.R. 7819:**

House reports: No. 188 (Committee on Education and Labor) and No. 1049 (committee of conference).
Senate Report No. 726 (Committee on Labor and Public Welfare).
Congressional Record, vol. 113 (1967):
- May 22-24: Considered and passed House.
- Dec. 1, 4-8, 11: Considered and passed Senate amended.
- Dec. 15: House and Senate agreed to conference report.

# 7. NATIONAL DEFENSE EDUCATION ACT OF 1958, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on September 2, 1958, as P.L. 85–864, (72 Stat. 1580). Amended on June 25, 1959, by P.L. 86–70 (73 Stat. 144); on July 12, 1960, by P.L. 87–293 (75 Stat. 623); on October 3, 1961, by P.L. 87–344 (75 Stat. 759); on October 5, 1961, by P.L. 87–400 (76 Stat. 832); on October 16, 1962, by P.L. 87–835 (76 Stat. 1070); on December 18, 1963, by P.L. 88–210 (77 Stat. 415); on October 16, 1964, by P.L. 88–665 (78 Stat. 1100); on October 9, 1965, by P.L. 89–253 (79 Stat. 879); on October 29, 1966, by P.L. 89–698 (80 Stat. 1066); on November 3, 1966, by P.L. 89–752 (80 Stat. 1240); and on January 2, 1968 by P.L. 90–247 (81 Stat. 820).**

AN ACT To strengthen the national defense and to encourage and assist in the expansion and improvement of educational programs to meet critical national needs; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act, divided into titles and section according to the following table of contents, may be cited as the "National Defense Education Act of 1958".

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NOTE.—*Section 2 of Public Law 90-247 sets guidelines for the administration of programs of Acts amended by Public Law 90-247 as follows:*

"Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States."

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## TITLE I—GENERAL PROVISIONS

### FINDINGS AND DECLARATION OF POLICY

SEC. 101. The Congress hereby finds and declares that the security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women. The present emergency demands that additional and more adequate educational opportunities be made available. The defense of this Nation depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge. 20 U.S.C. 401.

We must increase our efforts to identify and educate more of the talent of our Nation. This requires programs that will give assurance that no student of ability will be denied an opportunity for higher education because of financial need; will correct as rapidly as possible the existing imbalances in our educational programs.

The Congress reaffirms the principle and declares that the States and local communities have and must retain control over and primary responsibility for public education. The national interest requires, however, that the Federal Government give assistance to education for programs which are important to our defense.

To meet the present educational emergency requires additional effort at all levels of government. It is therefore the purpose of this Act to provide substantial assistance in various forms to individuals, and to States and their subdivisions, in order to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States.

### FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 102. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employees of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system. 20 U.S.C. 402.

### DEFINITIONS

SEC. 103. As used in this Act: 20 U.S.C. 403.

(a) The term "State" means a State, Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, or the Virgin Islands, except that (1) as used in section 205(b)(3) such term includes the Trust Territory of the Pacific Islands, and (2) as used in section 302 and 502, such term does not include Puerto Rico, the Canal Zone, Guam, American Samoa, or the Virgin Islands.

(b) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. For purpose of title II, such term includes any school of nursing as defined in subsection (1) of this section, and also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the student loan program under title II, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

20 U.S.C. 421–429.

(c) The term "Commissioner" means the Commissioner of Education.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(e) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is not such officer or agency, an officer or agency designated by the Governor or by State law.

(f) The term "school-age population" means that part of the population which is between the ages of five and seventeen, both inclusive, and such school-age population for the several States shall be determined by the Commissioner on the basis of the population between such ages for the most recent year for which satisfactory data are available from the Department of Commerce.

(g) The term "elementary school" means a school which provides elementary education, as determined under State law, or, if such school is not in any State, as determined by the Commissioner.

(h) The term "secondary school" means a school which provides secondary education, as determined under State law or, if such school is not in any State, as determined by the Commissioner, except that it does not include any education provided beyond grade 12. For the purposes of sections 301 and 304, the term "secondary school" may include a public junior college, as determined under State law, or, if such school is not in any State, as determined by the Commissioner.

(i) The term "public" as applied to any school or institution includes a school or institution of any agency of the United States, except that no such school or institution shall be eligible to receive any grant, loan, or other payment under this Act.

(j) The term "nonprofit", as applied to a school or institution, means a school or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and, for purposes of part A of title V, includes a school of any agency of the United States.

(k) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(l) The term "school of nursing" means a public or other nonprofit collegiate or associate degree school of nursing.

(m) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(n) The term "associate degree school of nursing" means department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(o) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

## TITLE II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

### APPROPRIATIONS AUTHORIZED

20 U.S.C. 421. SEC. 201. For the purpose of enabling the Commissioner to stimulate and assist in the establishment at institutions of higher education of funds for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions, there are hereby authorized to be appropriated $47,500,000 for the fiscal year ending June 30, 1959, $75,000,000 for the fiscal year ending June 30, 1960, $82,500,000 for the fiscal year ending June 30, 1961, $90,000,000 each for the fiscal year ending June 30, 1962, and the next fiscal year, $125,000,000 for the fiscal year ending June 30, 1964, $163,300,000 for the fiscal year ending June 30, 1965, $179,300,000 for the fiscal year ending June 30, 1966, $190,000,000 for the fiscal year ending June 30, 1967, and $225,000,000 for the fiscal year ending June 30, 1968, and such sums for the fiscal year ending June 30, 1969, and each of the next three fiscal years as may be necessary to enable students who have received loans for school years ending prior to July 1, 1968, to continue or complete their education. Sums appropriated under this section for any fiscal year shall be available, in accordance with agreements between the Commissioner and institutions of higher education, for payment of Federal capital contributions which, together with contributions from the institutions, shall be used for establishment and maintenance of student loan funds.

### ALLOTMENTS TO STATES

20 U.S.C. 422. SEC. 202. (a) From the sums appropriated pursuant to section 201 for any fiscal year ending prior to July 1, 1968, the Commissioner shall allot to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all of the States. The number of persons enrolled on a full-time basis in institutions of higher education for purposes of this section shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him.

(b) Sums appropriated pursuant to section 201 for any fiscal year ending after June 30, 1968, shall be allotted among the States in such manner as the Commissioner determines to be necessary to carry out the purpose for which such amounts are appropriated.

### PAYMENT OF FEDERAL CAPITAL CONTRIBUTIONS

SEC. 203. The Commissioner shall from time to time set dates by which institutions of higher education in a State must file applications for Federal capital contributions from the allotment of such State. In the event the total requested in such applications, which are made by institutions with which he has agreements under this title and which meet the requirements established in regulations of the Commissioner, exceeds the amount of the allotment of such State available for such purpose, the Federal capital contribution from such allotment to each such institution shall bear the same ratio, to the amount requested in its application as the amount of such allotment available for such purpose bears to the total requested in all such applications. In the event the total requested in such applications which are made by institutions in a State is less than the amount of the allotment of such State available for such purposes, the Commission may reallot the remaining amount from time to time, on such date or dates as the Commissioner may fix, to other States in proportion to the original allotments to such States under section 202 for such year. The Federal capital contribution to an institution shall be paid to it from time to time in such installments as the Commissioner determines will not result in unnecessary accumulations in the student loan fund established under its agreement under this title. 20 U.S.C. 423.

### CONDITIONS OF AGREEMENTS

SEC. 204. An agreement with any institution of higher education for Federal capital contributions by the Commissioner under this title shall— 20 U.S.C. 424.

(1) provide for establishment of a student loan fund by such institution;

(2) provide for deposit in such fund of (A) the Federal capital contributions, (B) an amount, equal to not less than one-ninth of such Federal contributions, contributed by such institution, (C) collections of principal and interest on student loans made from such fund, (D) charges collected pursuant to section 205(c), and (E) any other earnings of the fund;

(3) provide that such student loan fund shall be used only for (A) loans to students in accordance with such agreement, (B) capital distributions as provided in this title, (C) routine expenses incurred by the institution in administering the student loan fund, except that the amount withdrawn from such student loan fund for such routine expenses by an institution in any fiscal year may not exceed either (i) one-half of such routine expenses as estimated for that year by the Commissioner with the advice of an advisory committee which the Commissioner is hereby authorized to appoint on an annual or such other basis as he may deem appropriate, or (ii) 1 per centum of the aggregate of the outstanding loans made from that fund as of the close of that year, whichever is the lesser, and (D) cost of

litigation, and other collection costs agreed to by the Commissioner, arising in connection with the collection of any loan from the fund, interest on such loan, or charge assessed with respect to that loan pursuant to section 205(c);

(4) provide that in the selection of students to receive loans from such student loan fund special consideration shall be given to students with a superior academic background; and

(5) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this title and as are agreed to by the Commissioner and the institution.

### TERMS OF LOAN

20 U.S.C. 425.

SEC. 205. (a) The total of the loans for any academic year or its equivalent, as determined under regulations of the Commissioner, made by institutions of higher education from loan funds established pursuant to agreements under this title may not exceed $2,500 in the case of any graduate or professional student (as defined in regulations of the Commissioner), and may not exceed $1,000 in the case of any other student. The aggregate of the loans for all years from such funds may not exceed $10,000 in the case of any graduate or professional student (as so defined, and including any loas from such funds made to such person before he became a graduate or professional student), or $5,000 in the case of any other student.

(b) Loans from any such loan fund to any student by any institutions of higher education shall be made on such terms and conditions as the institution may determine; subject, however, to such conditions, limitations, and requirements as the Commissioner may prescribe (by regulation or in the agreement with the institution) with a view to preventing impairment of the capital of the student loan fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan shall be made only to a student who (A) is in need of the amount of the loan to pursue a course of study at such institution, and (B) is capable, in the opinion of the institution, of maintaining good standing in such course of study, and (C) has been accepted for enrollment as a student in such institution or, in the case of a student already attending such institution, is in good standing there either as an undergraduate, graduate, or professional student, and (D) is carrying at least one-half of the normal full-time academic workload as determined by the institution;

(2) such a loan shall be evidenced by a note or other written agreement which provides for repayment of the principal amount, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Commissioner) payable quarterly, bimonthly, or monthly (at the option of the

institution) over a period beginning nine months after the date on which the borrower ceases to carry, at an institution of higher education or at a comparable institution outside the States approved for this purpose by the Commissioner, at least one-half the normal full-time academic workload as determined by that institution, and ending ten years and nine months after such date, except that (A) interest shall not accure on any such loan, and installments need not be paid during any period (i) during which the borrower is carrying, at an institution of higher education or at a comparable institution outside the States approved for this purpose by the Commissioner, at least one-half the normal full-time academic workload as determined by the institution, (ii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (iv) not in excess of three years during which the borrower is in service as a volunteer under section 603 of the Economic Opportunity Act of 1964; *Provided*, That this clause shall apply to any loan outstanding on the effective date of the Peace Corps Act only with the consent of the then obligee institution, (B) any such period shall not be included in determining the ten-year period during which the repayment must be completed, (C) such ten-year period may also be extended for good cause determined in accordance with regulations of the Commissioner, (D) the institution may provide that installments need not be paid during any period or periods, aggregating not in excess of three years during which the borrower is in less than half-time attendance at an institution of higher education taking courses which are creditable toward a degree, and may also provide that any such period shall not be included in determining the ten-year period during which the repayment must be completed, but interest shall continue to accrue during any such period, (E) the borrower may at his option accelerate repayment of the whole or any part of such loan and (F) the institution may provide, in accordance with regulations of the Commissioner, that during the repayment period of the loan payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds established pursuant to this title shall be at a rate equal to not less than $15 per month;

(3) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan plus interest thereon for each complete academic year, or its equivalent (as determined under regulations of the Commissioner) of such service except that (A) such rate shall be 15 per

centum for each complete academic year or its equivalent (as determined under regulations of the Commissioner) of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title II of Public Law 874, Eighty-first Congress, as amended, and which for purposes of this clause and for that year has bene determined by the Commissioner, pursuant to regulations and after consultations with the State educational agency of the State in which the school is located, to be a school in which there is a high concentration of students from low-income families, except that the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, and (B) such rate shall be 15 per centum for each complete academic year or its equivalent (as so determined by regulations) of service as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purposes of any cancellation pursuant to clause (A) or (B);

(4) such a loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum except that no interest shall accrue before the date on which repayment of the loan is to begin in all cases except where the date on which repayment is to begin is suspended by reason of clause (D) of paragraph (2);

(5) such a loan shall be made without security and without endorsement, except that, if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(6) the liability to repay any such loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Commissioner;

(7) such a loan by an institution for any year shall be made in such installments as may be provided in regulations of the Commissioner or the agreement with the institution under this title and, upon notice to the Commissioner by the institution that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate; and

(8) no note or other evidence of such a loan may be transferred or assigned by the institution of higher education making the loan except, upon the transfer of the borrower to another institution of higher education participating in the program under this title (or, if not partici-

pating, is eligible to do so and is approved by the Commissioner for such purpose), to such institution.

(c) Pursuant to regulations of the Commissioner, an institution may assess a charge with respect to a loan from the loan fund established by the institution pursuant to this title for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment benefits under section 205(b)(2) or cancellation benefits under section 205(b)(3), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed—

(1) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter; and

(2) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6, respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(d) An agreement under this title for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institution in need thereof.

## DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

SEC. 206. (a) After June 30, 1972, and not later than September 30, 1972, there shall be a capital distribution of the balance of the student loan fund established under this title by each institution of higher education as follows: 20 U.S.C. 426.

(1) The Commissioner shall first be paid an amount which bears the same ratio to the balance in such fund at the close of June 30, 1972, as the total amount of the Federal capital contributions to such fund by the Commissioner under this title bears to the sum of such Federal capital contributions and the institution's capital contributions to such fund;

(2) The remainder of such balance shall be paid to the institution.

(b) After September 30, 1972, each institution with which the Commissioner has made an agreement under this title shall pay to the Commissioner, not less often than quarterly, the same proportionate share of amounts received by the institution after June 30, 1972, in payment of principal or interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the student loan fund or such payments of principal or interest) as was determined for the Commissioner under subsection (a).

(c) Upon a finding by the institution or the Commissioner prior to July 1, 1972, that the liquid assets of a student loan fund established pursuant to an agreement under this title exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Commissioner, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Commissioner or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Commissioner to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution;

(2) The remainder of the capital distribution shall be paid to the institution.

### LOANS TO INSTITUTIONS

20 U.S.C. 427.

SEC. 207. (a) Upon application by any institution of higher education with which he has made an agreement under this title, the Commissioner may make a loan to such institution for the purpose of helping to finance the institution's capital contributions to a student loan fund established pursuant to such agreement. Any such loan may be made only if such institution shows it is unable to secure such funds from non-Federal sources upon terms and conditions which the Commissioner determines to be reasonable and consistent with the purposes of this title. Loans made to institutions under this section shall bear interest at a rate which the Commissioner determines to be adequate to cover (1) the cost of the funds to the Treasury as determined by the Secretary of the Treasury taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Commissioner under this section, (2) the cost of administering this section, and (3) probable losses.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not to exceed a total of $25,000,000.

(c) Loans made by the Commissioner under this section shall mature within such period as may be determined by the Commissioner to be appropriate in each case, but not exceeding fifteen years.

### PAYMENTS TO COVER REDUCTIONS IN AMOUNTS OF LOANS

20 U.S.C. 428.

SEC. 208. In addition to the payments otherwise authorized to be made pursuant to this title, the Commissioner shall pay to the appropriate institution, at such time or times as he determines, an amount which bears the same ratio to the interest which has been prevented from accruing and the portion of the principal which has been canceled on student loans pursuant to paragraph (3) of section 205(b) (and not previously paid pursuant to this subsection) as the total amount of the institution's capital contributions to such fund under this title bears to the sum of such institution's capital contributions and the Federal capital contributions to such fund.

### ADMINISTRATIVE PROVISIONS

SEC. 209. (a) The Commissioner, in addition to the other powers conferred upon him by this title, shall have power to agree to modifications of agreements or loans made under this title and to compromise, waive, or release any right, title, claim, or demand, however arising or acquired under this title. 20 U.S.C. 429.

(b) Financial transactions of the Commissioner pursuant to this title, and vouchers approved by him in connection with such financial transactions, shall be final and conclusive upon all officers of the Government; except that all such transactions shall be subject to audit by the General Accounting Office at such times and in such manner as the Comptroller General may by regulation prescribe.

## TITLE—III FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN SCIENCE, AND OTHER MATHEMATICS, MODERN FOREIGN LANGUAGES, CRITICAL SUBJECTS

### APPROPRIATIONS AUTHORIZED

SEC. 301. There are hereby authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, $90,000,000 for the fiscal year ending June 30, 1965, $100,000,000 for the fiscal year ending June 30, 1966, and for the succeeding fiscal year and $110,000,000 for the fiscal year ending June 30, 1968; for (1) making payments to State educational agencies under this title for the acquisition of equipment and for minor remodeling, described in paragraph (1) of section 303(a), and (2) making loans authorized in section 305. There are also authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, and $10,000,000 for the fiscal year ending June 30, 1965, and for each of the three succeeding fiscal years, for making payments to State educational agencies under this title to carry out the programs described in paragraph (5) of section 303(a). 20 U.S.C. 441.

### ALLOTMENTS TO STATES

SEC. 302. (a)(1) From the sums appropriated pursuant to the first sentence of section 301 for any fiscal year the Commissioner shall reserve such amount, but not in excess of 2 per centum 20 U.S.C. 442.

thereof, as he may determine for allotment as provided in section 1008, and shall reserve 12 per centum for loans authorized in section 305. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to the amount of such remainder as the product of—

(A) The school-age population of the State, and

(B) The State's allotment ratio (as determined under paragraph (2)),

bears to the sum of the corresponding products for all the States.

(2) The "allotment ratio" for any State shall be 100 per centum less the product of (A) 50 per centum and (B) the quotient obtained by dividing the income per child of school age for the State by the income per child of school age for the United States, except that the allotment ratio shall in no case be less than 33⅓ per centum or more than 66⅔ per centum. The allotment ratios shall be promulgated by the Commissioner between July 1 and August 31 of each even-numbered year beginning with calendar year 1964, on the basis of the average of the incomes per child of school age for the States and for the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Each such promulgation shall be conclusive for each of the two fiscal years in the period July 1 next succeeding such promulgation, except that the ratios promulgated in 1959 shall be conclusive for each of the five fiscal years in the period beginning July 1, 1960, and ending June 30, 1965.

(3) For the purpose of this title—

(A) The term "child of school age" means a member of the population between the ages of five and seventeen, both inclusive.

(B) The term "United States" means the fifty States and the District of Columbia.

(C) The term "income per child of school age" for any State or for the United States means the total personal income for the State and the United States respectively, divided by the number of children of school age in such State and in the United States, respectively.

(b) From the sums appropriated pursuant to the second sentence of section 301 for any fiscal year the Commissioner shall reserve such amount, but not in excess of 2 per centum thereof, as he may determine for allotment as provided in section 1008. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of such State bears to the total of the school-age population of all of the States. The amount allotted to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to $50,000, the total thereby required being derived by proportionately reducing the amount allotted to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than $50,000.

(c) The amount of any State's allotment under subsection (a) or (b) of this section, or section 305 (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsections (a) and (b) of this section, and section 305(a), respectively, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year from funds appropriated pursuant to section 301 shall be deemed part of its allotment under subsection (a) or (b) of this section or section 305(a) as the case may be, for such year.

### STATE PLANS

Sec. 303. (a) Any State which desires to receive payments under this title shall submit to the Commissioner, through its State educational agency, a State plan which meets the requirements of section 1004(a) and— 20 U.S.C. 443.

(1) sets forth a program under which funds paid to the State from its allotment under section 302(a) will be expended solely for projects approved by the State educational agency for (A) acquisition of laboratory and other special equipment (other than supplies consumed in use), including audiovisual materials and equipment, and printed and published materials (other than textbooks), suitable for use in providing education in science, mathematics, history, civics, geography, economics, industrial arts, modern foreign language, English, or reading in public elementary or secondary schools, or both, and of test-grading equipment for such schools and specialized equipment for audiovisual libraries serving such schools, and such equipment, may, if there exists a critical need therefor in the judgments of local school authorities, be used when available and suitable in providing education in other subject matter, and (B) minor remodeling of laboratory or other space used for such materials or equipment;

(2) sets forth principles for determining the priority of such projects in the State for assistance under this title and provides for undertaking such projects, insofar as financial resources available therefor make possible, in the order determined by the application of such principles;

(3) provides an opportunity for a hearing before the State educational agency to any applicant for a project under this title;

(4) provides for the establishment of standards on a State level for laboratory and other special equipment acquired with assistance furnished under this title;

(5) sets forth a program under which funds paid to the State from its allotment under section 302(b) will be expended solely for (A) expansion or improvement of supervisory or related services in public elementary and secondary schools in the fields of science, mathematics, history, civics, geography, economics, industrial arts, modern foreign languages, English, and reading, and (B) administration of the State plan.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

### PAYMENT TO STATES

20 U.S.C. 444.

SEC. 304. (a) Form a State's allotment for a fiscal year under section 302(a), the Commissioner shall, from time to time, during the period such allotment is available for payment as provided in paragraph (4) of section 302(a), pay to such State an amount equal to one-half of the expenditures for projects for acquisition of equipment and minor remodeling referred to in paragraph (1) of section 303(a) which are carried out under its State plan approved under section 303(b); except that no State shall receive payments under this subsection for any period in excess of its allotments for such period under section 302(a).

(b) From a State's allotment under section 302(b) for the fiscal year ending June 30, 1959, the Commissioner shall from time to time pay to such State an amount equal to the amount expended by such State for such year to carry out the program referred to in paragraph (5) of section 303(a) under its State plan approved under section 303(b). From a State's allotment under section 302(b) for the fiscal year ending June 30, 1960, and for each of the eight succeeding years, such payments shall equal one-half of the amount so expended under its State plan approved under section 303(b); except that no State shall receive payments under this subsection for any fiscal year in excess of its allotment under section 302(b) for that fiscal year.

### LOANS TO NONPROFIT PRIVATE SCHOOLS

20 U.S.C. 445.

SEC. 305. (a) The Commissioners shall allot, out of funds reserved for each fiscal year for the purposes of this section under the provisions of section 302(a), to each State for loans under the provisions of this section an amount which bears the same ratio to such funds as the number of persons in such State enrolled in private nonprofit elementary and secondary schools bears to the total of such numbers for all States.

(b) From the sums allotted to each State under the provisions of this section the Commissioner is authorized to make loans to private nonprofit elementary and secondary schools in such State for the purposes for which payments to State educational agencies are authorized under the first sentence of section 301. Any such loan—

(1) shall be made upon application containing such information as may be deemed necessary by the Commissioner;

(2) shall be subject to such conditions as may be necessary to protect the financial interest of the United States;

(3) shall bear interest at the rate arrived at by adding one-quarter of 1 per centum pre annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as computed at the end of the fiscal year next preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum; and

(4) shall mature and be repayable on such date as may be agreed to by the Commissioner and the borrower, but such date shall not be more than ten years after the date on which such loan was made.

## TITLE IV—NATIONAL DEFENSE FELLOWSHIPS

### APPROPRIATIONS AUTHORIZED

SEC. 401. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. 20 U.S.C. 461.

### NUMBER OF FELLOWSHIPS

SEC. 402. (a) During the fiscal year ending June 30, 1965, the Commissioner is authorized to award not to exceed three thousand fellowships to be used for study in graduate programs at institutions of higher education, during the fiscal year ending June 30, 1966, he is authorized to award not to exceed six thousand such fellowships, and during each of the two succeeding fiscal years, he is authorized to award not to exceed seven thousand five hundred such fellowships. Such fellowships may be awarded for such period of study as the Commissioner may determine, but not in excess of three academic years, except that where a fellowship holder pursues his studies as a regularly enrolled student at the institution during periods outside the regular sessions of the graduate program of the institution, a fellowship may be awarded for a period not in excess of three calendar years. 20 U.S.C. 462.

(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

### AWARD OF FELLOWSHIPS AND APPROVAL OF INSTITUTIONS

SEC. 403. (a) Of the total number of fellowships authorized by section 402(a) to be awarded during a fiscal year (1) not less than one thousand five hundred of such fellowships awarded during the fiscal year ending June 30, 1965, and not less than 20 U.S.C. 463.

one-third of such fellowships awarded during the three succeeding fiscal years shall be awarded to individuals accepted for study in graduate programs approved by the Commissioner under this section, and (2) the remainder shall be awarded on such bases as he may determine, subject to the provisions of subsection (c). The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon the finding—

(1) that such program is a new program or an existing program which has been expanded; and

(2) that such new program or expansion of an existing program will substantially further the objective of increasing the facilities available in the Nation for the graduate training of college or university level teachers and of promoting a wider geographical distribution of such facilities throughout the Nation.

(b) The total of the fellowships awarded as described in clause (1) of subsection (a) for pursuing a course of study in a graduate program at any institution of higher education may not exceed a limit established by the Commissioner in light of the objective referred to in subsection (a)(2), and the Commissioner shall give consideration to such objectives in determining the number of fellowships awarded under this title for attendance at any one institution of higher education.

(c) Recipients of fellowships under this title shall be persons who are interested in teaching, or continuing to teach, in institutions of higher education and are pursuing, or intend to pursue, a course of study leading to a degree of doctor of philosophy or an equivalent degree.

(d) No fellowships shall be awarded under this title for study at a school or department of divinity. For the purposes of this subsection, the term "school or department of divinity" means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

### FELLOWSHIP STIPENDS

20 U.S.C. 464.

Sec. 404. (a) Each person awarded a fellowship under the provisions of this title shall receive a stipend of $2,000 for the first academic year of study, $2,300 for the second such year and $2,400 for the third such year, plus an additional amount of $400 for each such year on account of each of his dependents. Where a person awarded a fellowship under this title for study at an institution of higher education pursues his studies as a regularly enrolled student at such institution during periods outside of the regular sessions of the graduate program of the institution, the Commissioner may make appropriate adjustments in his stipends and allowances for dependents.

(b) In addition to the amounts paid to persons pursuant to subsection (a) there shall be paid to the institution of higher education at which each such person is pursuing his course of study $2,500 per academic year, less any amount charged such person for tuition.

### FELLOWSHIP CONDITIONS

SEC. 405. A person awarded a fellowship under the provisions of this title shall continue to receive the payments provided in section 404 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in, the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner. 20 U.S.C. 465.

## TITLE V—GUIDANCE, COUNSELING, AND TESTING: IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS

### PART A—STATE PROGRAMS

### APPROPRIATIONS AUTHORIZED

SEC. 501. There are hereby authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1963, $17,500,000 for the fiscal year ending June 30, 1964, $24,000,000 for the fiscal year ending June 30, 1965, $24,500,000 for the fiscal year ending June 30, 1966, and $30,000,000 for each of the two succeeding fiscal years, for making grants to State educational agencies under this part to assist them to establish and maintain programs of testing and guidance and counseling. 20 U.S.C. 481.

### ALLOTMENTS TO STATES

SEC. 502. (a) From the sums appropriated pursuant to section 501 for any fiscal year the Commissioner shall reserve such amount, but not in excess of 2 per centum thereof, as he may determine for allotment as provided in section 1008. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of such States bears to the total of the school-age population of all the States. The amount allotted to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to $50,000, the total of increases thereby required being derived by proportionately reducing the amount allotted to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than $50,000. 20 U.S.C. 482.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the State plan (if any) approved under this title shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under such subsection for such year, but with such proportionate amounts for any of such States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year from funds appropriated pursuant to section 501 shall be deemed part of its allotment under subsection (a) for such year.

### STATE PLANS

20 U.S.C. 483.

SEC. 503. (a) Any State which desires to receive payments under this part shall submit to the Commissioner, through its State educational agency, a State plan which meets the requirements of section 1004(a) and sets forth—

(1) a program for testing students in the public elementary and secondary schools of such State on the public junior colleges and technical institutes of such State, and, if authorized by law, in other elementary and secondary schools and in other junior colleges and technical institutes in such State, to identify students with outstanding aptitudes and ability, and the means of testing which will be utilized in carrying out such program; and

(2) a program of guidance and counseling at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of such State (A) to advise students of course of study best suited to their ability, aptitudes and skills, (B) to advise students in their decisions as to the type of educational program they should pursue, the vocation they shouldtra in for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

### PAYMENTS TO STATES

20 U.S.C. 484.

SEC. 504. (a) Payment under this part shall be made to those State educational agencies which administer plans approved under section 503. For the fiscal year ending June 30, 1959, such payments shall equal the amount expended by the State in carrying out its State plan, and for the fiscal year ending June 30, 1960, and for each of the eight succeeding fiscal years, such payments shall equal one-half of the amount so expended, including amounts expended under the State plan for State supervisory or related services in public elementary or secondary schools in the fields of guidance, counseling, and testing, and for administration of the State plan; except that no State educational agency shall receive payment under this part for any fiscal year in excess of that State's allotment for that fiscal year as determined under section 502.

(b) If any State which has a State plan approved under section 503 and in which the State educational agency is not authorized by law to make payments to cover the cost of testing students in any one or more elementary or secondary schools, or junior colleges or technical institutes, in such State to determine student abilities and aptitudes the Commissioner shall arrange for the testing of such students and shall pay the cost thereof for the fiscal year ending June 30, 1959, and one-half of the cost thereof for any of the nine succeeding fiscal years out of such State's allotment. Testing of students pursuant to this subsection shall, so far as practicable, be comparable to, and be done at the same grade levels and under the same conditions as in the case of, testing of students in public schools under the State plan.

### DEFINITIONS

SEC. 505. For the purposes of this title, the term "junior colleges or technical institutes" means (1) institutions of higher education which are organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree, and (2) institutions which meet the requirements of clauses (1), (2), (4), and (5) of section 103(b) and are organized and administered principally to provide a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, and, if a branch of an institution of higher education offering 4 or more years of higher education, is located in a community different from that in which its parent institution is located. 20 U.S.C. 485.

## PART B—COUNSELING AND GUIDANCE TRAINING INSTITUTES

### AUTHORIZATION

SEC. 511. (a) There are hereby authorized to be appropriated $6,250,000 for the fiscal year ending June 30, 1959. $7,250,000 for the fiscal year ending June 30, 1960, and for each of the eight succeeding fiscal years, to enable the Commissioner to arrange, through grants or contracts, with institutions of higher education for the operation by them of short-term or regular session institutes for advanced study, including study in the use of new materials, to improve the qualifications of individuals who are engaged, or are teachers preparing to engage, in counseling and guidance of students in elementary or in secondary schools or in institutions of higher education, including junior colleges and technical institutes as defined in section 505. 20 U.S.C. 491.

(b) Each individual who attends an institute operated under the provisions of this part shall be eligible (after application therefor) to receive a stipend at the rate of $75 per week for the period of his attendance at such institutes, and each such individual with one or more dependents shall receive an additional stipend at the rate of $15 per week for each such dependent.

## TITLE VI—LANGUAGE DEVELOPMENT

### LANGUAGE AND AREA CENTERS

20 U.S.C 511.

SEC. 601. (a) The Secretary is authorized to arrange through grants to or contracts with institutions of higher education for the establishment and operation by them, during the period beginning July 1, 1958, and ending with the close of June 30, 1968, of centers for the teaching of any modern foreign language with respect to which the Secretary determines that individuals trained in such language are needed by the Federal Government or by business, industry, or education in the United States. Any such grant or contract may provide for instruction not only in such modern foreign language but also in other fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, to the extent adequate instruction in such field is not readily available, including fields such as history, political science, linguistics, economics, sociology, geography, and anthropology. Any such grant or contract may cover all or part of the cost of the establishment and operation of the center with respect to which it is made, including the cost of grants to the staff for travel in the foreign areas, regions or countries with which the subject matter of the field or fields in which they are or will be working is concerned and the cost of travel of foreign scholars to such centers to teach or assist in teaching therein and the cost of their return, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(b) The Secretary is also authorized, during the period beginning July 1, 1958, and ending with the close of June 30, 1960, to pay stipends to individuals undergoing advanced training in any modern foreign language (with respect to which he makes the determination under subsection (a)), and other fields needed for a full understanding of the area, region, or country in which such language is commonly used, at any short-term or regular session of any institution of higher education, including allowances for dependents and for travel to and from their places of residence, but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching a modern foreign language in an institution of higher education or for such other service of a public nature as may be permitted in regulations of the Secretary.

### RESEARCH AND STUDIES

20 U.S.C. 512.

SEC. 602. The Commissioner is authorized, directly or by contract, to make studies and surveys to determine the need for increased or improved instruction in modern foreign languages and other fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, to conduct research or more effective methods of teaching such languages and in such other fields and to develop specialized materials for use in such training, or in training teachers of such languages or in such fields.

### APPROPRIATIONS AUTHORIZED

SEC. 603. There are hereby authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1964, $13,000,000 for the fiscal year ending June 30, 1965, $14,000,000 for the fiscal year ending June 30, 1966, $16,000,000 for the fiscal year ending June 30, 1967, and $18,000,000 for the fiscal year ending June 30, 1968, to carry out the provisions of this title. 20 U.S.C. 513.

## TITLE VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

### PART A—RESEARCH AND EXPERIMENTATION

### FUNCTIONS OF THE COMMISSIONER

SEC. 701. In carrying out the provisions of this part the Commissioner, in cooperation with the Advisory Committee on New Educational Media (established by section 761) shall (through grants or contracts) conduct, assist, and foster research and experimentation in the development and evaluation of projects involving television, radio, motion pictures, printed and published materials, and related media of communication which may prove of value to State or local educational agencies in the operation of their public elementary or secondary schools, and to institutions of higher education, including the development of new and more effective techniques and methods— 20 U.S.C. 541.

(1) for utilizing and adapting motion pictures, video tapes and other audiovisual aids, film strips, slides and other visual aids, recordings (including magnetic tapes) and other auditory aids, printed and published materials, and radio or television program script for such purposes;

(2) for training teachers to utilize such media with maximum effectiveness; and

(3) for presenting academic subject matter through such media.

### GRANTS-IN-AID; CONTRACTS

SEC. 702. In carrying out the provisions of section 701, the Commissioner— 20 U.S.C. 542.

(1) may make grants-in-aid, approved by the Advisory Committee on New Educational Media, to public or nonprofit private agencies, organizations, and individuals, for projects of research or experimentation referred to in section 701;

(2) may enter into contracts, approved by the Advisory Committee on New Educational Media, with public or private agencies, organizations, groups, and individuals, for projects of research or experimentation referred to in section 701; and

(3) shall promote the coordination of programs conducted or financed by him under this title with similar programs conducted by other agencies, institutions, foundations, organizations, or individuals.

## PART B—DISSEMINATION OF INFORMATION OF NEW EDUCATIONAL MEDIA

### FUNCTIONS OF THE COMMISSIONER

20 U.S.C. 551.

SEC. 731. In order to disseminate information concerning new educational media (including the results of research and experimentation conducted under part A of this title) to State or local educational agencies, for use in their public elementary or secondary schools, and to institutions of higher education, the Commissioner—

(1) shall make studies and surveys to determine the need for increased or improved utilization of television, radio, motion pictures, printed and published materials, and related media of communication by State, or local educational agencies and institutions of higher education for educational purposes;

(2) shall prepare and publish catalogs, reviews, bibliographies, abstracts, analysis of research and experimentation, and such other materials as are generally useful in the encouragement and more effective use of television, radio, motion pictures, printed and published materials, and related media of communications for educational purposes;

(3) may, upon request, provide advice, counsel, technical assistance, and demonstrations to State or local educational agencies and institutions of higher education undertaking to utilize such media of communication to increase the quality or depth or broaden the scope of their educational programs;

(4) shall prepare and publish an annual report setting forth (A) projects carried out under this title and the cost of each such project, and (B) developments in the utilization and adaptation of media of communication for educational purposes; and

(5) may enter into contracts with purlic or private agencies, organizations, groups, or individuals to carry out the provisions of this part.

## PART C—GENERAL PROVISIONS

### ESTABLISHMENT OF THE ADVISORY COMMITTEE

20 U.S.C. 561.

SEC. 761. (a) There is hereby established in the Office of Education an Advisory Committee on New Educational Media (hereafter in this title referred to as the "Advisory Committee"). The Advisory Committee shall consist of the Commissioner, who shall be Chairman, a representative of the National Science Foundation and twelve persons appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary. Three of such appointed members shall be individuals identified with the sciences, liberal arts, or modern foreign languages in institutions of higher education; three shall be individuals actually engaged in teaching or in the supervision of teaching in elementary or secondary schools; three shall be individuals of demonstrated ability in the utilization or adaptation of television, radio, motion pictures, printed and published materials, and related media of communication for educational purposes; and three shall be individuals representative of the lay public who have demonstrated an interest in the problems of communication media.

(b) The Advisory Committee shall—

(1) advise, consult with, and make recommendations to the Commissioner on matters relating to the utilization or adaptation of television, radio, motion pictures, printed and published materials, or related media of communication for educational purposes, and on matters of basic policy arising in the administration of this title;

(2) review all applications for grants-in-aid under part A of this title for projects of research or experimentation and certify approval to the Commissioner of any such projects which it believes are appropriate for carrying out the provisions of this title; and

(3) review all proposals by the Commissioner to enter into contracts under this title and certify approval to the Commissioner of any such contracts which it believes are appropriate to carry out the provisions of this title.

(c) The Commissioner may utilize the services of any number of members of the Advisory Committee in connection with matters relating to the provisions of this title, for such periods, in addition to conference periods, as he may determine.

(d) Members of the Advisory Committee shall, while serving on business of the Advisory Committee or at the request of the Commissioner under subsection (c) of this section, receive compensation at rates fixed by the Secretary, not to exceed $50 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence.

### SPECIAL PERSONNEL

SEC. 762. The Commissioner may secure from time to time and for such periods as he deems advisable, without regard to the civil service laws, the assistance and advice of persons in the United States and from abroad who are experts in the utilization and adaptation of television, radio, motion pictures, and other related media of communication for educational purposes. 20 U.S.C 562.

### APPROPRIATIONS AUTHORIZED

20 U.S.C 563. SEC. 763. There are hereby authorized to be appropriated the sum of $3,000,000 for the fiscal year ending June 30, 1959, and the sum of $5,000,000 for each of the nine succeeding fiscal years for carrying out the provisions of this title.

## TITLE VIII—AREA VOCATIONAL EDUCATIONAL PROGRAMS

20 U.S.C 15aaa-ggg.

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## TITLE IX—SCIENCE INFORMATION SERVICE

### FUNCTIONS OF THE SERVICE

42 U.S.C 1876. SEC. 901. The National Science Foundation shall establish a Science Information Service. The Foundation, through such Service, shall (1) provide, or arrange for the provision of, indexing, abstracting, translating, and other services leading to a more effective dissemination of scientific information, and (2) undertake programs to develop new or improved methods, including mechanized systems, for making scientific information available.

### SCIENCE INFORMATION COUNCIL

42 U.S.C 1877. SEC. 902. (a) The National Science Foundation shall establish, in the Foundation, a Science Foundation Council (hereinafter in this title referred to as the "Council") consisting of the Librarian of Congress, the director of the National Library of Medicine, the director of the Department of Agriculture library, and the head of the Science Information Service, each of whom shall be ex officio members, and fifteen members appointed by the Director of the National Science Foundation. The Council shall annually elect one of the appointed members to serve as chairman until the next election. Six of the appointed members shall be leaders in the fields of fundamental science, six shall be leaders in the fields of librarianship and scientific documentation, and three shall be outstanding representatives of the lay public who have demonstrated interest in the problems of communication. Each appointed member of such Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (2) that of the members first appointed, four shall hold office for a term of three years, four shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Director of the National Science Foundation at the time of appointment. No appointed member of the Council shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) It shall be the duty of the Council to advise, to consult with, and to make recommendations to, the head of the Science Information Service. The Council shall meet at least twice each year, and at such other times as the majority thereof deems appropriate.

(c) Persons appointed to the Council shall, while serving on business of the Council, receive compensation at rates fixed by the National Science Foundation, but not to exceed $50 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expense while so serving away from their places of residence.

### AUTHORITY FOR CERTAIN GRANTS AND CONTRACTS

SEC. 903. In carrying out its functions under this title the National Science Foundation shall have the same power and authority it has under the National Science Foundation Act of 1950 to carry out its functions under that Act. 42 U.S.C 1878.

### APPROPRIATIONS AUTHORIZED

SEC. 904. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and for each succeeding fiscal year, such sums as may be necessary to carry out the provisions of this title. 42 U.S.C 1879.

## TITLE X—MISCELLANEOUS PROVISIONS

### ADMINISTRATION

SEC. 1001. (a) The Commissioner is authorized to delegate any of his functions under this Act, except the making of regulations, to any officer, or employee of the Office of Education. 20 U.S.C 581.

(b) In administering the titles of this Act for which he is responsible, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), of any other public or nonprofit agency or institution, in accordance with agreements between the Secretary and the head thereof.

(c) The Commissioner shall include in his annual report to the Congress a full report of the activities of the Office of Education under this Act, including recommendations for needed revisions in the provisions thereof.

(d) The Secretary shall advise and consult with the heads of departments and agencies of the Federal Government responsible for the administration of scholarship, fellowship, or other educational programs with a view to securing full information, concerning all specialized scholarship, fellowship, or other educational programs administered by or under any such department or agency and to developing policies and procedures which will strengthen the educational programs and objectives of the institutions of higher education utilized for such purposes by any such department or agency.

(e) Any agency of the Federal Government shall exercise its functions under any other law in such manner as will assist in carrying out the objectives of this Act. Nothing in this Act shall be construed as superseding or limiting the authority of any such agency under any other law.

(f), (1) No part of any funds appropriated or otherwise made available for expenditure under the authority of this Act shall be used to make payments or loans to any individual unless such individual has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic".

(2) No fellowship or stipend shall be awarded to any individual under the provisions of title IV or of part A of title VI of this Act unless such individual has provided the Commissioner (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crime committed before attaining sixteen years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such fellowship or stipend.

(3) The provisions of section 1001 of title 18, United States Code, shall be applicable with respect to the oath or affirmation required under paragraph (1) of this subsection and to the statement required under paragraph (2).

(4)(A) When any Communist organization, as defined in paragraph (5) of section 3 of the Subversive Activities Control Act of 1950, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any payment or loan which is to be made from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of this Act, or (ii) to use or attempt to use any such payment to loan.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(g) Nothing contained in this Act shall prohibit the Commissioner from refusing or revoking a fellowship award under title IV of this Act, in whole or in part, in the case of any applicant or recipient, if the Commissioner is of the opinion that such award is not in the best interests of the United States.

### ADVISORY COMMITTEES

20 U.S.C. 582.

SEC. 1002. (a) The Commissioner, with the approval of the Secretary, may appoint an advisory committee, or advisory committees, to advise, and consult with them with respect to the administration of the provisions of this Act for which he is responsible. Any such committees shall have twelve members as follows:

(1) Four members who are recognized scholars in any of the following fields: engineering, mathematics, or science;

(2) Four members who are recognized scholars in any of the fields of the humanities; and

(3) Four members from such fields of endeavor as the Commissioner deems appropriate.

Members of an advisory committee appointed under this section, while attending conferences or meetings of the committee, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding $50 per diem, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

### EXEMPTION FROM CONFLICT-OF-INTEREST LAWS OF MEMBERS OF ADVISORY COMMITTEES OR INFORMATION COUNCIL

SEC. 1003. (a) Any member of an advisory committee or information council appointed under this Act is hereby exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except as otherwise specified in subsection (b) of this section. 20 U.S.C. 583.

(b) The exemption granted by subsection (a) shall not extend—

(1) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment, or

(2) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, or any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

### ADMINISTRATION OF STATE PLANS

SEC. 1004. (a) No State plans submitted under one of the titles of this Act shall be approved by the Commissioner which does not— 20 U.S.C. 584.

(1) provide, in the case of a plan submitted under title III or under title V, or section 1009 of this title, that the State educational agency will be the sole agency for administering the plan;

(2) provide that such commission or agency will make such reports to the Commissioner, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his duties under such title or section and will keep such records and afford such access thereto as the Commissioner may find necessary

to assure the correctness and verification of such report; and

(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under such title or section (including such funds paid by the State to the local educational agencies).

(b) The Commissioner shall not finally disapprove any State plan submitted under this Act, or any modification thereof, without first affording the agency administering the plan reasonable notice and opportunity for a hearing.

(c) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the agency administering a State plan approved under one of the titles of this Act, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of this Act governing its original approval, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision the Commissioner shall notify such State agency, in the case of a plan submitted under title III or V or section 1009 of this title, that no further payments will be made to the State under such title or section (or, in his discretion, further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to such State under such title or section, as the case may be (or shall limit payments to programs under or portions of the State plan not affected by such failure).

### JUDICIAL REVIEW

20 U.S.C. 585.

SEC. 1005. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under this Act, or with respect to his final action under section 1004(c), such State may, within sixty days after notice of such action, file in the United States district court for the district in which the capital of the State is located, a petition to review such action. The petition for review shall (1) contain a concise statement of the facts upon which the appeal is based and (2) designate that part of the Commissioner's decision sought to be reviewed.

(b) Notification of the filing of the petition for review shall be given by the clerk of the court by mailing a copy of the petition to the Commissioner.

(c) No costs or docket fees shall be charged or imposed with respect to any judicial review proceedings, or appeal therefrom, taken under this Act.

(d) Upon receipt of the petition for review the Commissioner shall within twenty days thereafter, certify and file in the court the record on review, consisting of the complete transcript of the proceedings before the Commissioner. No party to such review shall be required by rule of court or otherwise, to print the contents of such record filed in the court.

(e) The court after review may dismiss the petition or deny the relief prayed for, or may suspend, modify, or set aside, in whole or in part, the action of the Commissioner, or may compel action unlawfully withheld. The judgment of the court shall be subject to review as provided in sections 1291 and 1254 of title 28 of the United States Code.

### METHOD OF PAYMENT

SEC. 1006. Payments under this Act to any individual or to any State or Federal agency, institution of higher education, or any other organization, pursuant to a grant, loan, or contract, may be made in installments, and in advance or by way of reimbursement, and in the case of grants or loans, with necessary adjustments on account of overpayments or underpayments. 20 U.S.C. 586.

### ADMINISTRATIVE APPROPRIATIONS AUTHORIZED

SEC. 1007. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and for each fiscal year thereafter, such sums as may be necessary for the cost of administering the provisions of this Act, including the administrative expenses of State commissions. 20 U.S.C. 587.

### ALLOTMENTS TO TERRITORIES AND POSSESSIONS

SEC. 1008. The amounts reserved by the Commissioner under sections 302 and 502 shall be alloted by the Commissioner among Puerto Rico, the Canal Zone, Guam, American Samoa, and the Virgin Islands, according to their respective needs for the type of assistance furnished under the part or title in which the section appears. 20 U.S.C. 588.

### IMPROVEMENT OF STATISTICAL SERVICES OF STATE EDUCATIONAL AGENCIES

SEC. 1009. (a) For the purpose of assisting the States to improve and strengthen the adequacy and reliability of educational statistics provided by State and local reports and records and the methods and techniques for collecting and processing educational data and disseminating information about the condition and progress of education in the States, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each of the nine succeeding fiscal years, for grants to States under this section, such sums as the Congress may determine. 20 U.S.C. 589.

(b) Grants under this section by the Commissioner shall be equal to one-half of the cost of State educational agency programs to carry out the purposes of this section, including (1) improving the collection, analysis, and reporting of statistical data supplied by local educational units; (2) the development of accounting and reporting manuals to serve as guides for local educational units; (3) the conduct of conferences and training for personnel of local educational units and of periodic reviews and evaluation of the program for records and reports; (4)

improving methods for obtaining, from other State agencies within the State, educational data not collected by the State educational agency; or (5) expediting the processing and reporting of statistical data through installation and operation of mechanical equipment. The total of the payments to any State under this section for any fiscal year may not exceed $50,000.

(c) Payments with respect to any program of a State educational agency under this section may be made (1) only to the extent it is a new program or an addition to or expansion of an existing program and (2) only if the State plan approved under subsection (d) includes such program.

(d) The Commissioner shall approve any State plan for purposes of this section if such plan meets the requirements of section 1004(a) and sets forth the programs proposed to be carried out under the plan and the general policies to be followed in doing so.

## TITLE XI—INSTITUTES

20 U.S.C. 591.

### Part I—General

#### AUTHORIZATION OF INSTITUTES

02 U.S.C. 591. **Sec. 1101.** There are authorized to be appropriated $32,750,000 for the fiscal year ending June 30, 1965, and $50,000,000 for the fiscal year ending June 30, 1966, and for the succeeding 81 Stat. 820. fiscal year, and $51,000,000 for the fiscal year ending June 30, 1968, to enable the Commissioner to arrange, through grants or contracts, with institutions of higher education for the operation by them of short-term or regular session institutes for advanced study, including study in the use of new materials, to improve the qualification of individuals—

(1) who are engaged in or preparing to engage in the teaching, or supervising or training of teachers, of history, geography, economics, civics, industrial arts, modern foreign languages, reading, or English in elementary or secondary schools;

(2) who are engaged in or preparing to engage in the teaching of disadvantaged youth and are, by virtue of their service or future service in elementary or secondary schools enrolling substantial numbers of culturally, economically, socially, and educationally handicapped youth, in need of specialized training; except that no institute may be established under this title for teachers of disadvantaged youth unless such institute will offer a specialized program of instruction designed to assist such teachers in coping with the unique and peculiar problems involved in the teaching of such youth;

(3) who are engaged as, or preparing to engage as, library personnel in the elementary or secondary schools, or as supervisors of such personnel; or

81 Stat. 820. (4) who are engaged in or preparing to engage in special educational programs for children of limited English-speaking ability.

### STIPENDS

SEC. 1102. Each individual who attends an institute operated under the provisions of this title shall be eligible (after application therefor) to receive a stipend at the rate of $75 per week for the period of his attendance at such institutes, and each such individual with one or more dependents shall receive an additional stipend at the rate of $15 per week for such dependent. 20 U.S.C. 592.

## PART II—INTERNATIONAL AFFAIRS

### INTERNATIONAL AFFAIRS INSTITUTES FOR SECONDARY SCHOOL TEACHERS

SEC. 1111. There are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1967, and $6,000,000 for the fiscal year ending June 30, 1968, to enable the Commissioner to arrange through contracts with institutions of higher education for the establishment and operation of short-term or regular-session institutes for teachers in secondary schools in order to give them a broader understanding of international affairs. Any such arrangement may cover the cost of the establishment and operation of the institute with respect to which it is made, including the costs of grants to the staff of travel in the foreign areas, regions, or countries with which the subject matter of the field or fields in which they are or will be working is concerned, and the cost of travel of foreign scholars to enable them to teach or assist in teaching in such institute and the cost of their return, and shall be made on such conditions as the Commissioner finds necessary to carry out the purposes of this section. 20 U.S.C. 601.

### STIPENDS

SEC. 1112. The Commissioner is authorized to pay stipends to any individual to study in a program assisted under the provisions of this part upon determining that assisting such individual in such studies will promote the purpose of this part. Stipends under the provisions of this section may include allowances for dependents and for travel to and from the place of residence. 20 U.S.C. 602.

### Legislative History

### NATIONAL DEFENSE EDUCATION ACT OF 1958, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

*85th Congress*

(P.L. 85-864)

H.R. 13247:
  H. Repts. 2157 (Committee on Education and Labor) and 2688 (committee of conference).
  S. Rept. 2242 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 104 (1968):
    Aug. 7: Considered in House.
    Aug. 8: Considered and passed House, amended.*
    Aug. 13: Considered and passed Senate, amended (in lieu of S. 4237).
    Aug. 22: Senate agreed to conference report.
    Aug. 23: House agreed to conference report.

*86th Congress*

(P.L. 86-70)

**H.R. 7120:**

H. Rept. 369 (Committee on Interior and Insular Affairs).
S. Rept. 331 (Committee on Interior and Insular Affairs).
Congressional Record, vol. 105 (1959):
June 1: Considered and passed House, amended.
June 3: Considered and passed Senate, amended.
June 11: House concurred in Senate amendment with an amendment.
June 12: Senate concurred in House amendment to Senate amendment.

*87th Congress*

(P.L. 87-293)

**H.R. 7500:**

H. Repts. 1115 (Committee on Foreign Affairs) and 1239 (committee of conference).
Senate report: None.
Congressional Record, vol. 107 (1961):
Sept. 13: Considered in House.
Sept. 14: Considered and passed House, amended.
Sept. 15: Considered and passed Senate, amended.
Sept. 20: Conference report considered in House.
Sept. 21: House and Senate agreed to conference report.

(P.L. 87-344)

**S. 2393:**

S. Rept. 743 (Committee on Labor and Public Welfare).
House report: None.
Congressional Record, vol. 107 (1961):
Sept. 8: Considered in Senate.
Sept. 11: Considered in Senate.
Sept. 12: Considered and passed Senate.
Sept. 18: Considered and passed House.

**H.R. 9053:**

H. Rept. 1145 (Committee on Education and Labor).
Senate report: None.
Congressional Record, vol. 107 (1961):
Sept. 18: Passed House.
Sept. 26: Passed Senate.

(P.L. 87-835)

**H.R. 8556:**

H. Rept. 1029 (Committee on Science and Astronautics).
S. Rept. No. 2117 (Committee on Labor and Public Welfare).
Congressional Record, vol. 107 (1961):
Sept. 6: Passed House.
Congressional Record, vol. 108 (1962):
Sept. 27: Passed Senate, amended.
Oct. 2: House concurred in Senate amendment.

*88th Congress*

(P.L. 88-210)

**H.R. 4955:**

H. Rept. 469 (Committee on Education and Labor) and 1025 (committee of conference).
S. Rept. 558 (Committee on Labor and Public Welfare).
Congressional Record, vol. 109 (1963):
Aug. 6: Considered and passed House, amended.
Oct. 3: Considered in Senate.
Oct. 8: Considered and passed Senate, amended.
Dec. 12: House agreed to conference report.
Dec. 14: Senate agreed to conference report.

(P.L. 88–665)

S. 3060:

S. Rept. 1257 (Committee on Labor and Public Welfare).

H. Repts. 1639 (Committee on Education and Labor) and 1916 (committee of conference).

Congressional Record, vol. 110 (1964):

Aug. 1: Considered and passed Senate.
Aug. 14: Considered and passed House, amended (in lieu of H.R. 11904).
Oct. 1: House agreed to conference report.
Oct. 2: Senate agreed to conference report.

*89th Congress*

(P.L. 89–253)

H.R. 8283:

H. Repts. 428 (Committee on Education and Labor) and 1001 and 1061 (committee of conference).

S. Rept. 599 (Committee on Labor and Public Welfare).

Congressional Record, vol. 111 (1965):

July 20, 21: Considered in House.
July 22: Considered and passed House.
Aug. 16–18: Considered in Senate.
Aug. 19: Considered and passed Senate, amended.
Sept. 15: Considered in House.
Sept. 23: House agreed to conference report.
Sept. 24: Senate agreed to conference report.

(P.L. 89–329)

H.R. 9567:

H. Repts. 621 (Committee on Education and Labor) and 1178 (committee of conference).

S. Rept. 673 (Committee on Labor and Public Welfare).

Congressional Record, vol. 111 (1965):

Aug. 26: Considered and passed House.
Sept. 1: Considered in Senate.
Sept. 2: Considered and passed Senate, amended.
Oct. 20: House and Senate agreed to conference report.

(P.L. 89–698)

H.R. 14643:

H. Rept. 1539 (Committee on Education and Labor).

S. Rept. 1715 (Committee on Labor and Public Welfare).

Congressional Record, vol. 112 (1966):

June 6: Considered and passed House.
Oct. 13: Considered and passed Senate, amended.
Oct. 21: House concurred in Senate amendment with an amendment; Senate concurred in House amendment.

(P.L. 89–752)

H.R. 14644:

H. Repts. 1467 (Committee on Education and Labor) and 2326 (committee of conference).

S. Rept. 1677 (Committee on Labor and Public Welfare).

Congressional Record, vol. 112 (1966):

May 22: Considered and passed House.
Oct. 7: Considered in Senate.
Oct. 10: Considered and passed Senate, amended.
Oct. 21: House and Senate agreed to conference report.

*90th Congress*

(P.L. 90–247)

H.R. 7819:

H. Repts. 188 (Committee on Education and Labor) and 1049 (committee of conference).

S. Rept. 726 (Committee on Labor and Public Welfare).

Congressional Record, vol. 113 (1967):

May 22–24: Considered and passed House.
Dec. 1, 4–8, 11: Considered and passed Senate, amended.
Dec. 15: House and Senate agreed to conference report.

# 8. FELLOWSHIPS FOR URBAN STUDIES—TITLE VIII OF THE HOUSING ACT OF 1964, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on September 2, 1964, as P.L. 88–560, (78 Stat. 769, 803), 20 U.S.C. 811. Amended on August 19, 1967, by P.L. 90–66 (81 Stat. 167).**

**AN ACT To extend and amend laws relating to housing, urban renewal, and community facilities, and for other purposes.**

**Housing Act of 1964.**

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Housing Act of 1964".**

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## TITLE VIII—TRAINING AND FELLOWSHIP PROGRAMS

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### PART 2—FELLOWSHIPS FOR CITY PLANNING AND URBAN STUDIES

**20 U.S.C. 811.**
**81 Stat. 167.**

**SEC. 810. (a) There is hereby authorized to be appropriated not to exceed $500,000 annually, for a six-year period commencing on July 1, 1964, to be used by the Housing and Home Finance Administrator for the purpose of providing fellowships for the graduate training of professional city planning and urban and housing technicians and specialists as herein provided. Persons shall be selected for such fellowships solely on the basis of ability and upon the recommendation of the Urban Studies Fellowship Advisory Board established pursuant to subsection (b). Fellowships shall be solely for training in public and private nonprofit institutions of higher education having programs of graduate study in the field of city planning or in related fields (including architecture, civil engineering, economics, numicipal finance, public administration, and sociology), which programs are oriented to training for careers in city and regional planning, housing, urban renewal, and community development.**

**(b) There is hereby established the Urban Studies Fellowship Advisory Board (hereinafter referred to as the "Board"), which shall consist of nine members to be appointed by the Housing and Home Finance Administrator as follows: Three from public institutions of higher learning, and three from private nonprofit institutions of higher education, who are the heads of departments which provide academic courses appropriately related to the fields referred to in subsection (a), and three from national organizations which are directly concerned with problems relating to urban, regional, and community development. The Board shall meet upon the request of the Adminis-**

trator and shall make recommendations to him with respect to persons to be selected for fellowships under this section. Members of the Board shall be entitled to receive transportation expenses and a per diem in lieu of subsistence as authorized for members of advisory committees created pursuant to section 601 of the Housing Act of 1949. 12 U.S.C 1701 h.

### Legislative History

### Housing Act of 1964, as Amended Through the 90th Congress, First Session

*88th Congress*—P.L. 88-560

S. 3049:
  Senate Rept. 3049 (Committee on Banking and Currency).
  House Repts. 1703 (Committee on Banking and Currency) and 1828 (committee of conference).
  Congressional Record, vol. 110 (1964).
    July 31: Considered and passed Senate.
    August13: Considered and passed House, amended in lieu of H.R. 12175.
    August 19: House and Senate agreed to conference report.

*90th Congress*—P.L. 90-66

S. 1762:
  House Report No. 534 (Committee on Banking and Currency).
  Senate Report No. 224 (Committee on Banking and Currency).
  Congressional Record, vol. 113 (1967):
    May 15: Considered and passed Senate.
    Aug. 7: Considered and passed House.

## 9. EDUCATIONAL BROADCASTING—TITLE III, PART IV OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Title III, part IV of the Communications Act of 1934 was enacted on May 1, 1962 as P.L. 87–447 (76 Stat. 64), 47 U.S.C. 390, and amended on November 7, 1967 by the Public Broadcasting Act of 1967, P.L. 90–129 (81 Stat. 365)**

**AN ACT To amend the Communications Act of 1934 to establish a program of Federal matching grants for the construction of television broadcasting facilities to be used for educational purposes.**

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,***

* * * * *

## TITLE III OF THE COMMUNICATIONS ACT OF 1934

* * * *

## PART IV—GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES; CORPORATION FOR PUBLIC BROADCASTING

### Subpart A—Grants for Facilities

#### DECLARATION OF PURPOSE

**SEC. 390. The purpose of this subpart is to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities.** 47 U.S.C. 390. 81 Stat. 365.

#### AUTHORIZATION OF APPROPRIATIONS

**SEC. 391. There are authorized to be appropriated for the fiscal year ending June 30, 1963, and each of the four succeeding fiscal years such sums, not exceeding $32,000,000 in the aggregate, as may be necessary to carry out the purposes of section 390. There are also authorized to be appropriated for carrying out the purposes of such section, $10,500,000 for the fiscal year ending June 30, 1968, $12,500,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970. Sums appropriated pursuant to this section shall remain available for payment of grants for projects for which applications, approved under section 392, have been submitted under such section prior to July 1, 1971.** 47 U.S.C. 391. 81 Stat. 365.

#### GRANTS FOR CONSTRUCTION

**"SEC. 392. (a) For each project for the construction of noncommercial educational television or radio broadcasting facilities there shall be submitted to the Secretary an application** 49 U.S.C. 392.

for a grant containing such information with respect to such project as the Secretary may by regulation require, including the total cost of such project and the amount of the Federal grant requested for such project, and providing assurance satisfactory to the Secretary—

"(1) that the applicant is (A) an agency or officer responsible for the supervision of public elementary or secondary education or public higher education within that State, or within a political subdivision thereof, (B) in the case of a project for television facilities, the State noncommercial educational television agency or, in the case of a project for radio facilities, the State educational radio agency, (C) a college or university deriving its support in whole or in part from tax revenues, (D)(i) in the case of a project for television facilities a nonprofit foundation, corporation, or association which is organized primarily to engage in or encourage noncommercial educational television broadcasting and is eligible to receive a license from the Federal Communications Commission for a noncommercial educational television broadcasting station pursuant to the rules and regulations of the Commission in effect on April 12, 1962 or (ii) in the case of a project for radio facilities, a nonprofit foundation, corporation, or association which is organized primarily to engage in or encourage noncommercial educational radio broadcasting and is eligible to receive a license from the Federal Communications Commission; or meets the requirements of clause (i) and is also organized to engage in or encourage such radio broadcasting and is eligible for such a license for such a radio station, or (E) a municipality which owns and operates a broadcasting facility transmitting only noncommercial programs; 81 Stat. 365. 81 Stat. 366.

(2) that the operation of such educational broadcasting facilities will be under the control of the applicant or a person qualified under paragraph (1) to be such an applicant;

(3) that necessary funds to construct, operate, and maintain such educational broadcasting facilities will be available when needed;

(4) that such broadcasting facilities will be used only for educational purposes; and

81Stat. 366. (5) that, in the case of an application with respect to radio broadcasting facilities, there has been comprehensive planning for educational broadcasting facilities and services in the area the applicant proposes to serve and the applicant has participated in such planning, and the applicant will make the most efficient use of the frequency assignment.

81 Stat. 365. (b) The total of the grants made under this part from the appropriation for any fiscal year for the construction of noncommercial educational television broadcasting facilities and noncommercial educational radio broadcasting facilities in any State may not exceed 8½ per centum of such appropriation.[1]

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[1] By section 102 of P.L. 90-129, the revision of subsection (b) of section 392 shall be effective with respect to grants made from appropriations for any fiscal year beginning after June 30, 1967.

(c)(1) In order to assure proper coordination of construction of noncommercial educational television broadcasting facilities within each State which has established a State educational television agency, each applicant for a grant under this section for a project for construction of such facilities in such State, other than such agency, shall notify such agency of each application for such a grant which is submitted by it to the Secretary, and the Secretary shall advise such agency with respect to the disposition of each such application.

(2) In order to assure proper coordination of construction of noncommercial educational radio broadcasting facilities within each State which has established a State educational radio agency, each applicant for a grant under this section for a project for construction of such facilities in such State, other than such agency, shall notify such agency of each application for such a grant which is submitted by it to the Secretary, and the Secretary shall advise such agency with respect to the disposition of each such application. 81 Stat. 366.

(d) The Secretary shall base his determinations of whether to approve applications for grants under this section and the amount of such grants on criteria set forth in regulations and designed to achieve (1) prompt and effective use of all noncommercial educational television channels remaining available, (2) equitable geographical distribution of noncommercial educational television broadcasting facilities or noncommercial educational broadcasting facilities, as the case may be, throughout the States, and (3) provision of noncommercial educational television broadcasting facilities or noncommercial educational radio broadcasting facilities, as the case may be, which will serve the greatest number of persons and serve them in as many areas as possible, and which are adaptable to the broadest educational uses. 81 Stat. 366.

(e) Upon approving any application under this section with respect to any project, the Secretary shall make a grant to the applicant in the amount determined by him, but not exceeding 75 per centum of the amount determined by the Secretary to be the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sum available therefor, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. 81 Stat. 367.

(f) If, within ten years after completion of any project for construction of educational television or radio broadcasting facilities with respect to which a grant has been made under this section—

(1) the applicant or other owner of such facilities ceases to be an agency, officer, institution, foundation, corporation, or association described in subsection (a)(1), or

(2) such facilities cease to be used for noncommercial educational television purposes or noncommercial educational radio purposes, as the case may be, (unless the

Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation so to do),
the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated) of such facilities, as the amount of the Federal participation bore to the cost of construction of such facilities.

### RECORDS

47 U.S.C. 393. **Sec. 393.** (a) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out his functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart.

### RULES AND REGULATIONS

**** **Sec. 394.** The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under section 392 or to determining the amounts of grants for such projects.

### PROVISION OF ASSISTANCE BY FEDERAL COMMUNICATIONS COMMISSION

**Sec. 395.** The Federal Communications Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for consultation and close cooperation with the Federal Communications Commission in the administration of his functions under this subpart which are of interest to or affect the functions of the Commission.

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****By the provisions of the Public Broadcasting Act of 1967, P.L. 90-129, former section 394 has been redesignated as section 397, former section 396 has been redesignated section 394, former section 397 has been redesignated section 398 and a new section 396 has been added. In view of possible changes in United States Code section numbers to reflect such redesignations and additions, Code citations have been omitted for the remainder of this Act.

### SUBPART B—CORPORATION FOR PUBLIC BROADCASTING

### Congressional Declaration of Policy

SEC. 396. (a) The Congress hereby finds and declares— 81 Stat. 368.

(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instructional purposes;

(2) that expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programing depend on freedom, imagination, and initiative on both the local and national levels;

(3) that the encouragement and support of noncommercial educational radio and television broadcasting, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

(4) that it furthers the general welfare to encourage noncommercial educational radio and television broadcast programing which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

(5) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational radio and television service available to all the citizens of the United States;

(6) that a private corporation should be created to facilitate the development of educational radio and television broadcasting and to afford maximum protection to such broadcasting from extraneous interference and control.

### Corporation Established

(b) There is authorized to be established a nonprofit corporation, to be known as the "Corporation for Public Broadcasting", which will not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act. D.C. Code 29-1001.

### Board of Directors

(c)(1) The Corporation shall have a Board of Directors (hereinafter in this section referred to as the "Board"), consisting of fifteen members appointed by the President, by and with the advice and consent of the Senate. Not more than eight members of the Board may be members of the same political party.

(2) The members of the Board (A) shall be selected from among citizens of the United States (not regular fulltime employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including

radio and television; (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the country, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

(3) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

(4) The term of office of each member of the Board shall be six years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, five at the end of two years, five at the end of four years, and five at the end of six years. No member shall be eligible to serve in excess of two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has qualified.

(5) Any vacancy in the Board shall not affect its power, but shall be filled in the manner in which the original appointments were made.

### Election of Chairman; Compensation

(d)(1) The President shall designate one of the members first appointed to the Board as Chairman; thereafter the members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as a Vice Chairman or Vice Chairmen.

(2) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this subpart be entitled to receive compensation at the rate of $100 per day including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

### Officers and Employees

(e)(1) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation, other than the Chairman and any Vice Chairman, may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation. All officers shall serve at the pleasure of the Board.

(2) Except as provided in the second sentence of subsection (c)(1) of this section, no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

### Nonprofit and Nonpolitical Nature of the Corporation

(f)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any divedends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(3) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

### Purposes and Activities of the Corporation

(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommerical educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the station;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

"(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are, among others not specifically named—

"(A) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(B) to contract with or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

"(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programing costs of such stations, particularly innovative approaches thereto, and other costs of operation of such stations;

"(D) to establish and maintain a library and archives of noncommercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

"(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

"(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

"(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such service on a local, State, regional, and national basis;

"(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to noncommercial educational television or radio broadcasting.

"(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation may not own or operate any television or radio broadcast station, system, or network, community antenna television system, or interconnection or program production facility.

D.C. Code 29-1001.

### "Authorization for Free or Reduced Rate Interconnection Service

"(h) Nothing in the Communications Act of 1934, as amended or in any other provision of law shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for noncommercial educational television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.

### Report to Congress

(i) The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate.

### Right To Repeal, Alter, or Amend

(j) The right to repeal, alter, or amend this section at any time is expressly reserved.

### "Financing

(k)(1) There are authorized to be appropriated for expenses of the Corporation for the fiscal year ending June 30, 1968, the sum of $9,000,000, to remain available until expended.

(2) Notwithstanding the preceding provisions of this section, no grant or contract pursuant to this section may provide for payment from the appropriation for the fiscal year ending June 30, 1968, for any one project or to any one station of more than $250,000.

### Records and Audit

(l)(1)(A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(B) The report of each such independent audit shall be included in the annual report required by subsection (i) of this section. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2)(A) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the

Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(3)(A) Each recipient of assistance by grant or contract, other than a fixed price contract awarded pursuant to competitive bidding procedures, under this section shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) The Corporation or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this section. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.

### DEFINITIONS

Sec. 397. For the purposes of this part—

81 Stat. 367. (1) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The term "construction", as applied to educational television broadcasting facilities or educational radio broadcasting facilities means the acquisition and installation of transmission apparatus (including towers, microwave equipment, boosters, translators, repeaters, mobile equipment, and video-recording

equipment) necessary for television broadcasting or radio broadcasting, as the case may be, including apparatus which may incidentally be used for transmitting closed circuit television programs, but does not include the construction or repair of structures to house such apparatus. In the case of apparatus the acquisition and installation of which is so included, such term also includes planning therefor. 81 Stat. 367.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The terms "State educational television agency" and "State educational radio agency" mean, with respect to television broadcasting and radio broadcasting respectively, (A) a board or commission established by State law for the purpose of promoting such broadcasting within a State, (B) a board or commission appointed by the Governor of a State for such purpose if such appointment is not inconsistent with State law, or (C) a State officer or agency responsible for the supervision of public elementary or secondary education or public higher education within the State which has been designated by the Governor to assume responsibility for the promotion of such broadcasting; and, in the case of the District of Columbia, the term "Governor" means the Board of Commissioners of the District of Columbia and, in the case of the Trust Territory of the Pacific Islands, means the High Commissioner thereof before the period at the end thereof. 81 Stat. 367.

(5) The term "nonprofit" as applied to any foundation, corporation, or association, means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) The term "Corporation" means the Corporation authorized to be established by subpart B of this part. 81 Stat. 368.

(7) The term "noncommercial eductional broadcast station" means a television or radio broadcast station, which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of enactment of the Public Broadcasting Act of 1967, is eligible to be licensed or is licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational puposes.

(8) The term "interconnection" means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to noncommercial educational television or radio broadcast stations.

(9) The term "educational television or radio programs" means programs which are primarily designed for educational or cultural purposes.

### FEDERAL INTERFERENCE OR CONTROL PROHIBITED

SEC. 398. Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under this Act; or (2) to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over educational television or radio broadcasting, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or educational broadcasting station or system.

### EDITORIALIZING AND SUPPORT OF POLITICAL CANIDATES PROHIBITED

81 Stat. 368.

SEC. 399. No noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office.

*Title III of the Public Broadcasting Act of 1967, P.L. 90–129, authorized a study of Educational and Instructional Broadcasting as follows:*

81 Stat. 372.

## TITLE III—STUDY OF EDUCTIONAL AND INSTRUCTIONAL BROADCASTING

### STUDY AUTHORIZED

SEC. 301. The Secretary of Health, Education, and Welfare is authorized to conduct, directly or by contract, and in consultation with other interested Federal agencies, a comprehensive study of instructional television and radio (including broadcast, closed circuit, community antenna television, and instructional television fixed services and two-way communication of data links and computers) and their relationship to each other and to instructional materials such as videotapes, films, discs, computers, and other educational materials or devices, and such other aspects thereof as may be of assistance in determining whether and what Federal aid should be provided for instructional radio and television and the form that aid should take, and which may aid communities, institutions, or agencies in determining whether and to what extent such activities should be used.

### DURATION OF STUDY

SEC. 302. The study authorized by this title shall be submitted to the President for transmittal to the Congress on or before June 30, 1969.

### APPROPRIATION

SEC. 303. There are authorized to be appropriated for the study authorized by this title such sums, not exceeding $500,000, as may be necessary.

## Legislative History

### TITLE III, PART IV OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*87th Congress*—P.L. 87–447

S. 205:
  - Senate Report No. 67 (Committee on Interstate and Foreign Commerce).
  - House Report No. 1609 (Committee of Conference).
  - Congressional Record, vol. 107 (1961) and 108 (1962).
    - Mar. 21, 1961: Considered and passed Senate.
    - Mar. 7, 1962: Considered and passed House.
    - Apr. 16, 1962: Senate agreed to conference report.
    - Apr. 18, 1962: House agreed to conference report.

*90th Congress*—P.L. 90–129

S. 1160:
  - House Reports: No. 572 accompanying H. R. 6736 (Committee on Interstate and Foreign Commerce) and No. 794 (committee of conference).
  - Senate Report No. 222 (Committee on Commerce).
  - Congressional Record, vol. 113 (1967):
    - May 17: Considered and passed Senate.
    - Sept. 21: Considered and passed House, amended, in lieu of H.R. 6736.
    - Oct. 19: House agreed to conference report.
    - Oct. 26: Senate agreed to conference report.

## 10. VOCATIONAL REHABILITATION ACT, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on June 2, 1920, as Public Law No. 236, 66th Congress (41 Stat. 735). Amended on June 5, 1924, by P.L. 200, 68th Congress (43 Stat. 430); on June 9, 1930, by P.L. 317, 71st Congress (46 Stat. 524); on June 30, 1932, by P.L. 222, 72nd Congress (47 Stat. 448); on July 6, 1943, by P.L. 113, 78th Congress (57 Stat. 374); on August 3, 1954, by P.L. 565, 83rd Congress (68 Stat. 652); on November 8, 1965, by P.L. 89–333 (79 Stat. 1282); and on October 3, 1967, by P.L. 90–99 (81 Stat. 250).**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Vocational Rehabilitation Act."

### AUTHORIZATION OF APPROPRIATIONS FOR GRANTS: PURPOSES FOR WHICH AVAILABLE

SECTION 1. (a) The Secretary is authorized to make grants as provided in this Act for the purpose of assisting States in rehabilitating handicapped individuals so that they may prepare for and engage in gainful employment to the extent of their capabilities, thereby increasing not only their social and economic well-being but also the productive capacity of the Nation. 29 U.S.C. 31.

(b)(1) For the purpose of making grants to States under section 2 to assist them in meeting the costs of vocational rehabilitation services, there is authorized to be appropriated for the fiscal year ending June 30, 1966, the sum of $300,000,000, for the fiscal year ending June 30, 1967, the sum of $350,000,000, and for the fiscal year ending June 30, 1968, the sum of $400,000,000, for the fiscal year ending June 30, 1969, the sum of $500,000,000, and for the fiscal year ending June 30, 1970, the sum of $600,000,000. 81 Stat. 250.

(2) For the purpose of making grants under section 3, relating to grants to States to assist them in meeting the costs of projects for innovation of vocational rehabilitation services, there is authorized to be appropriated for the fiscal year ending June 30, 1966, the sum of $5,000,000, for the fiscal year ending June 30, 1967, the sum of $7,000,000, and for the fiscal year ending June 30, 1968, the sum of $9,000,000.

(3) For the purpose of making grants (A) under section 4(a)(1) for research, demonstrations, training, and traineeships; (B) under clause (2)(A) of section 4(a) for planning, preparing for, and initiating special programs to expand State vocational rehabilitation services; and (C) under clause (2)(B) of section 4(a) to meet the cost of planning for the development of a comprehensive vocational rehabilitation program in each State, there is authorized to be appropriated for the fiscal year ending June 30, 1966, the sum of $80,000,000, for the fiscal year ending June 30, 1967, the sum of $104,000,000, and for the fiscal year ending June 30, 1968, the sum of $117,000,000.

(4) For the fiscal year ending June 30, 1969, and each of the succeeding fiscal years, only such sums may be appropriated for the purposes described in paragraphs (1), (2), and (3) as the Congress may hereafter authorize by law.

### GRANTS TO STATES FOR VOCATIONAL REHABILITATION SERVICES

29 U.S.C. 32.

Sec. 2. (a) For each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated by paragraph (1) of section 1(b) for meeting the cost of vocational rehabilitation services, as the product of (1) the population of the State and (2) the square of its allotment percentage (as defined in section 11(h)) bears to the sum of the corresponding products for all the States. The allotment to any State under the preceding sentence which is less than the amount such State was entitled to receive under subsection (b) of this section for the fiscal year ending June 30, 1965, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments of each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

(b) For each fiscal year the Secretary shall pay to each State an amount equal to the Federal share (determined as provided in section 11(i)) of the cost of vocational rehabilitation services under the plan for such State approved under section 5, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) for such year, and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources (except for expenditures with respect to which the State is entitled to payments under section 3) during such year under such State's plan are less than such expenditures under such plan for the fiscal year ending June 30, 1965.

### GRANTS TO STATES FOR INNOVATION OF VOCATIONAL REHABILITATION SERVICES

29 U.S.C. 33.

Sec. 3. (a)(1) From the sums available for any fiscal year for grants to States to assist them in meeting the costs described in paragraph (2) of this subsection, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $5,000 (or such other amount as may be specified as a minimum allotment in the Act appropriating such sums for such year) shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

(2) From each State's allotment under this section for any fiscal year, the Secretary shall pay to such State a portion of the cost of approved projects for vocational rehabilitation services (including their administration) under the State plan which (A) provide for the development of methods or techniques, which are new in the State, for providing vocational rehabilitation services for handicapped individuals, or (B) are specially designed for development of, or provision for, new or expanded vocational rehabilitation services for groups of handicapped individuals having disabilities which are catastrophic or particularly severe. The Secretary shall approve any project for purposes of this section only if the plan of such State approved under section 5 includes such project or is modified to include it.

(b) Payments under this section with respect to any project may be made for a period of not to exceed five years beginning with the commencement of the first fiscal year for which any payment is made with respect to such project from an allotment under this section. To the extent permitted by the State's allotment under this section, such payments with respect to any project shall be equal to 90 per centum of the cost of such project for the first three years and 75 per centum of the cost of such project for the next two years, except that, at the request of the State, such payments may be less than such percentage of the cost of such project.

(c) No payment may be made from an allotment under this section with respect to any cost with respect to which any payment is made under section 2.

(d) The amendment made by this section shall be in effect for fiscal years beginning after June 30, 1965, except that payments may be made from a State's allotment under section 3 of the Vocational Rehabilitation Act for any project approved under such section before the enactment of this Act. Such payments may be made for the period for which such project was approved and at the rate provided for in such section at the time of such approval.

### GRANTS FOR SPECIAL PROJECTS

SEC. 4. (a) From the sums available therefor for any fiscal year, the Secretary shall make grants (1) to States and public and other non-profit organizations and agencies for paying part of the cost of projects for research, demonstrations, training, and traineeships, and projects for the establishment of special facilities and services, which, in the judgment of the Secretary, hold promise of making a substantial contribution to the solution of vocational rehabilitation problems common to all or several States, and 20 U.S.C. 34.

(2)(A) to States and public and other nonprofit organizations and agencies for paying part of the cost of planning, preparing for, and initiating special programs to expand vocational rehabilitation services in those States where, in the judgment of the Secretary, such action holds promise of yielding a substantial increase in the number of persons vocationally rehabilitated, except that sums appropriated for any fiscal year beginning after June 30, 1970, shall not be available for grants under this clause, and sums appropriated for any fiscal year ending prior to July 1, 1970, for grants under this clause shall remain available for such grants until the close of June 30, 1971, and (B) to States (but not to exceed $100,000 for any State for any fiscal year) to meet the cost of planning for the development of a comprehensive vocational rehabilitation program in each State, with a view to achieving the orderly development of vocational rehabilitation services in the State (including vocational rehabilitation services provided by private nonprofit agencies), and making vocational rehabilitation services available to all handicapped individuals in the State by July 1, 1975, except that sums appropriated for any fiscal year beginning prior to July 1, 1965, or ending after June 30, 1968, shall not be available for grants under this clause, and sums appropriated for the period beginning July 1, 1965, and ending June 30, 1968, for grants under this clause shall remain available for such grants until the close of June 30, 1969. Grants for training and traineeships under clause (1) of this subsection may include training and traineeships in physical medicine and rehabilitation, physical therapy, occupational therapy, speech pathology and audiology, rehabilitaion nursing, rehabilitation social work, prosthetics and orthotics, rehabilitation psychology, rehabilitation counseling, recreation for the ill and handicapped, and other specialized fields contributiong to vocational rehabilitation. No grant shall be made under clause (1) or clause (2) of this subsection for furnishing to an individual any one course of study extending for a period in excess of four years.

81 Stat. 251.

81 Stat. 251.

81 Stat. 251.

(b) The Secretary shall be authorized to cooperate in assisting with the financing of a pilot demonstration rehabilitation center in the metropolitan Washington area to be used as a guide for rehabilitation centers which may be set up later in other parts of the country. Sums made available for such a pilot demonstration center in the Washington area may be used during such initial period as the Secretary may determine for such services as hospitalization, domiciliary care, and rehabilitation training, including costs of board and room of trainees and other services essential to the program, as in the discretion of the Secretary deems desirable. The services of such a pilot demonstration rehabilitation center in the metropolitan Washington area shall be made available to area civil service employees as well as to other patients.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(d)(1) There is hereby established in the Department of Health, Education, and Welfare, a National Advisory Council on Vocational Rehabilitation, consisting of the Secretary, or his designee, who shall be Chairman, and twelve members appointed without regard to civil service laws by the Secretary. The twelve appointed members shall be leaders in fields concerned with vocational rehabilitation or in public affairs, and six of such twelve shall be selected from leading medical, educational, or scientific authorities who are outstanding for their work in the vocational rehabilitation of handicapped individauls. Three of the twelve appointed members shall be persons who are themselves handicapped. Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year as designated by the Secretary at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed after the end of his preceding term.

(2) The Council is authorized to review applications for special projects submitted to the Secretary under this section (other than subsection (a)(2)) and recommend to the Secretary for grants thereunder any such projects or any projects initiated by it which it believes show promise of making valuable contributions to the vocational rehabilitation of handicapped individuals. The Secretary is authorized to utilize the services of any member or members of the Council in connection with matters relating to the administration of this section, for such periods, in addition to conference periods, as he may determine.

(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council or at the request of the Secretary, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(4) The Secretary shall transmit to the Congress annually a report concerning the special projects initiated under this section, the recommendations of the National Advisory Council on Vocational Rehabilitation, and any action taken with respect to such recommendations.

### STATE PLANS

SEC. 5. (a) To be approvable under this Act, a State plan for vocational rehabilitation services shall— 20 U.S.C. 35.

(1)(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration in a political subdivision of the State by a sole local agency of such political subdivision, except that where under the State's law the State blind commission, or other agency which provides assistance or services to the adult blind, is authorized to provide them vocational rehabilitation services, such commission or agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind (or to supervise the administration of such part in a political subdivision of the State by a sole local agency of such political Subdivision) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan.

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subparagraph (A)) so much of the State plan as does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of disabled individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in paragraph (1)(B)(i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit (i) is primarily concerned with vocational rehabilitation, or vocational and/or other rehabilitation, of disabled individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B)(i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency or (ii) in the case of an agency described in paragraph (1)(B)(ii), either that such unit shall be so located and have such status or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to paragraph (1), such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this paragraph (2) applying separately to each of such units.

(3) provide for financial participation by the State, and provide that the plan shall be in effect in all political subdivisions of the State;

(4) show the plan, policies, and methods to be followed in carrying out the work under the State plan and in its administration and supervision, and in case vocational rehabilitation services cannot be provided all eligible handicapped individuals who apply for such services, show the order to be followed in selecting those to whom vocational rehabilitation services will be rovided;

(5) provide such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan;

(6) contain (A) provisions relating to the establishment and maintenance of personnel stanards, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provisions;

(7) provide that, in addition to training, maintenance, placement, and guidance, physical restoration services will be provided under the plan;

(8) provide that the State agency will make such reports in such form and containing such information, as the Secretary may from time to time reasonably require to carry out his functions under this Act, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(9) provide for cooperation by the State agency with, and the utilization of the services of, the State agency administering the State's public assistance program, and the Bureau of Old-Age and Survivors Insurance (Department of Health, Education, and Welfare) and of other Federal, State, and local public agencies providing services relating to vocational rehabilitation services;

(10) provide for entering into cooperative arrangements with the system of public employment offices in the State and the maximum utilization of the job placement and employment counseling services and other services and facilities of such offices;

(11) provide that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons; and

81 Stat. 253. (12) effective July 1, 1969, provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State.

(b) The Secretary shall approve any plan which the Secretary finds fulfills the conditions specified in subsection (a) of this section.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under the section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that no further payments will be made to the State under section 2 or 3 (or, in his discretion, that further payments will not be made to the State for projects under or parts of the State plan affected by such failure), until he is satisfied that there is no longer any such failure. Until he is so satisfied the Secretary shall make no further payments to such State under section 2 or 3 (or shall limit payments to projects under or parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of the Administrative Procedure Act.

### METHOD OF COMPUTING AND MAKING PAYMENTS

29 U.S.C. 36. SEC. 6. The method of computing and paying amounts pursuant to section 2 or 3 shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such section for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay, from the allotment available therefor, the amount so estimated by him for such period reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such section was greater or less than the amount which should have been paid to the State for such prior period under such section. Such payments shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

### ADMINISTRATION

SEC. 7. (a) In carrying out his duties under this Act, the Secretary shall— 29 U.S.C. 37.

(1) cooperate with and render technical assistance to States in matters relating to the vocational rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowships and traineeships may be in the fields of physical medicine and rehabilitation, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, rehabilitation social work, prosthetics and orthotics, rehabilitation psychology, rehabilitation counseling, recreation for the ill and handicapped, and other specialized fields contributing to vocational rehabilitation; and

(3) disseminate information relating to vocational rehabilitation services, and otherwise promote the cause of rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(b) The Secretary is authorized to make rules and regulations governing the administration of this Act, and to delegate to any officer or employee of the United States such of his powers and duties, except the making of rules and regulations, as he finds necessary in carrying out the purposes of this Act.

(c) The Secretary is authorized, directly or by contract—

(1) to conduct research, studies, investigations, and demonstrations, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, develpoment of their potentialities, and their utilization in gainful and suitable employment; and

(2) to plan, establish, and operate an information service, to make available to agencies, organizations, and other groups and persons concerned with vocational rehabilitation, information on rehabilitation resources useful for various kinds of disability and on research and the results thereof and on other matters which may be helpful in promoting the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(d) There are authorized to be appropriated for the fiscal year ending June 30, 1966, and each succeeding fiscal year, such sums as may be necessary for carrying out the purposes of this section.

### PROMOTION OF EMPLOYMENT OPPORTUNITIES

29 U.S.C. 38.

SEC. 8. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall cooperate in developing, and in recommending to the appropriate State agencies, policies and procedures which will facilitate the placemnt in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, and, together with the Chairman of the President's Committee on Employment of the Handicapped, shall develop and recommend methods which will assure maximum utilization of services which that committee, and cooperating State and local organizations, are able to render in promoting job opportunities for such individuals.

### REPORTS

29 U.S.C. 39.

SEC. 9. Annual reports shall be made to the Congress by the Secretary as to the administration of this Act.

### AUTHORIZATION OF APPROPRIATION FOR ADMINISTRATION

29 U.S.C. 40.

SEC. 10. There are hereby authorized to be included for each fiscal year in the appropriations for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

### DEFINITIONS

SEC. 11. For the purposes of this Act—

29 U.S.C. 41.

(a) The term "vocational rehabilitation services" means diagnostic and related services (including transportation) incidental to the determination of eligibility for and the nature and scope of services to be provided; training, guidance and placement services for handicapped individuals; provisions, in the case of handicapped individuals, of reader services for such individuals who are blind and of interpreter services in the case of such individuals who are deaf; and, after full consideration of his eligibility for any similar benefit by way of pension, compensation, and insurance, any other goods and services necessary to render such individual fit to engage in a gainful occupation (including remunerative homebound work), including the following physical restoration and other goods and services—

(1) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or substantially reduce such handicap within a reasonable length of time;

(2) necessary hospitalization in connection with surgery or treatment specified in paragraph (1);

(3) such prosthetic devices as are essential to obtaining or retaining employment;

(4) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(5) tools, equipment, initial stocks and supplies (including equipment and initial stocks and supplies for vending stands), books, and training materials, to any or all of which the State may retain legal title; and

(6) tranportation and occupational licenses.

Such term also includes—

(7) in the case of any type of small business operated by the severely handicapped the operation of which can be improved by management services and supervison provided by the State agency, the provision of such services and supervision, alone or together with the acquisition by the State agency of vending stands or other equipment and initial stocks and supplies, and

(8) the establishment of public and other nonprofit rehabilitation facilities to provide services for handicapped individuals and the establishment of public and other nonprofit workshops for the severely handicapped.

(b) The term "handicapped individual" means any individual who is under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation; except that nothing in the preceding provisions of this subsection or in subsection (a) shall be construed to exclude from "vocational rehabilitation services" any goods or services provided to an individual who is under a physical or mental disability which constitutes a substantial handicap to employment, during the period, not in excess of eighteen months in the case of any individual who is mentally retarded or has a disability designated for this purpose by the Secretary, or six months in the case of an individual with any other disability, determined (in accordance with regulations of the Secretary) to be necessary for, and which are provided for the purpose of, ascertaining whether it may reasonably be expected that such individual will be rendered fit to engage in a remunerative occupation through thep rovision of goods and services described in subsection (a), but only if the goods or services provided to him during such period would constitute "vocational rehabilitation services" if his disability were of such a nature that he would be a "handicapped individual" under such preceding provisions of this subsection.

(c) The term "rehabilitation facility" means a facility operated for the primary purpose of assisting in the rehabilitation of handicapped individuals—

(1) which provides one or more of the following types of services:

(A) testing, fitting, or training in the use of prosthetic devices;

(B) prevocational or conditioning therapy;

(C) physical or occupational therapy;

(D) adjustment training; or

(E) evaluation or control of special disabilities; or

(2) through which is provided an integrated program of medical, psychological, social, and vocational evalua-

tion and services under competent professional supervision: *Provided*, That the major portion of such evaluation and services is furnished within the facility and that all medical and related health services are prescribed by, or are under the formal supervision of, persons licensed to practice medicine or surgery in the State.

(d) The term "workshop" means a place where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing gainful employment to the severely handicapped who cannot be readily absorbed in the competitive labor market.

(e) The term "nonprofit", when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 101(6) of the Internal Revenue Code.

(f) Establishment of a workshop or rehabilitation facility means—

(1) in the case of a workshop, the expansion, remodeling, or alteration of existing buildings, necessary to adapt such buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and

(2) in the case of a rehabilitation facility, the expansion, remodeling, or alteration of existing buildings, and initial equipment of such buildings, necessary to adapt such buildings to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may by regulations prescribe in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance to States in the construction of such facilities) and initial staffing thereof (for a period not exceeding one year).

(g) The term "State" includes Alaska, the District of Columbia, Hawaii, the Virgin Islands, and Puerto Rico, and for purposes of section 4, includes also Guam.

(h)(1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska), except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for Hawaii shall be 50 per centum, and the allotment percentage for the District of Columbia, Alaska, Puerto Rico, and the Virgin Islands shall be 75 per centum.

81 Stat. 253.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average of the per capita incomes of

the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentages as soon as possible after the enactment of the Vocational Rehabilitation Amendments of 1954, which promulgation shall be conclusive for the three fiscal years in the period ending June 30, 1957.

(i) The term "Federal share" means 75 per centum.

(j) The population of the several States shall be determined on the basis of the latest figures furnished by the Department of Commerce.

(k) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

### GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES AND WORKSHOPS

SEC. 12. (a) Effective for fiscal years beginning after June 30, 1965, the Secretary is authorized to make grants to assist in meeting the costs of construction of public or other nonprofit workshops and rehabilitation facilities. Such grants may be made only for projects for which applications are approved by the Secretary under this section. 29 U.S.C. 41a.

(b) To be approved, an application for a grant for a construction project under this section must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or other nonprofit workshop or rehabilitation facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use as a workshop or rehabilitation facility, as the case may be;

(2) be accompanied or supplemented by plans and specifications which comply with regulations of the Secretary relating to minimum standards of construction and equipment, and with regulations of the Secretary of Labor relating to safety standards for workshops and rehabilitation facilities;

(3) be approved, in accordance with regulations of the Secretary, by the appropriate State agency designated as provided in section 5(a)(1);

(4) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the

Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5); amd the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 625(g) of the Public Health Service Act, (42 U.S.C. 291o(g)) in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined under subparagraph (A) of section 625(b)(1) of such Act (42 U.S.C. 291o(b)(1)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations of the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such paragraph.

(d) Upon approval of any application for a grant for a construction project under this section, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant determined under subsection (c); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. In case an amendment to an approved application is approved or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(e) If, within twenty years after completion of any construction project for which funds have been paid under this section, the workshop or rehabilitation facility shall cease to be a public or other nonprofit workshop or rehabilitation facility, the United States shall be entitled to recover from the applicant or other owner of the workshop or facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such workshop or facility is situated) of the workshop or facility, as the amount of the Federal participation bore to the cost of construction of such workshop or facility.

(f) The Secretary is also authorized to make grants to assist in the initial staffing of any public or other non-profit workshop or rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations of the Secretary) of compensation of professional or technical personnel of such workshop or facility during the period beginning with the commencement of the operation of such workshop or facility and ending with the close of four years and three months after the month in which such operation commenced.

Such grants with respect to any workshop or facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(g) The Secretary is also authorized to make grants (1) to the State agency or agencies designated as provided in section 5(a)(1) to assist in meeting the cost of determining the State's needs for workshops and rehabilitation facilities and (2) upon application approved by the appropriate State agency so designated for such State, to public or other nonprofit agencies institutions, or organizations to assist them in meeting the costs of planning workshops and rehabilitation facilities and the services to be provided thereby.

(h) Payment of grants under subsection (f) or (g) may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary may determine.

(i) There is authorized to be appropriated for carrying out this section $1,500,000 for fiscal year ending June 30, 1966, $7,000,000 for the fiscal year ending June 30, 1967, $9,000,000, for the fiscal year ending June 30, 1968, and for each of the two succeeding fiscal years only such sums may be appropriated for carrying out this section as the Congress may hereafter authorize by law. Sums so appropriated shall remain available for payment with respect to construction projects approved or initial staffing grants made under this section prior to July 1, 1970.

(j) For purposes of this section—

(1) "construction" includes construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered, or renovated buildings;

(2) the "cost" of construction includes the cost of architects' fees and acquisition of land in connection with construction, but does not include the cost of offsite improvements;

(3) a project for construction of a workshop may include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of mentally retarded individuals or such other categories of handicapped individuals as the Secretary may designate.

### WORKSHOP IMPROVEMENT

### Grants for Projects for Training Services

SEC. 13. (a)(1) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1971, to make grants to State and public and other nonprofit organiza- 29 U.S.C. 416.

tions and agencies to pay 90 per centum of the cost of projects for providing training services to handicapped individuals in public or other nonprofit workshops and rehabilitation facilities.

(2)(A) Training services, for purposes of this subsection, shall include training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related service.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $25 plus $10 for each of the individual's dependents, or $65, whichever is less. In determining the amount of such allowance for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's fitness to engage in a remunerative occupation.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals for a gainful occupation, (B) the individuals to receive training services under such project will include only individuals who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 5(a)(1) of the State in which the workshop or rehabilitation facility is located, (C) the full range of training services will be made available to each such individual, to the extent of his need for such services, (D) the project, including the participating workshop or rehabilitation facility and the training services provided, meet such other requirements as he may prescribe for carrying out the purposes of this subsection.

(4) Payments under this subsection may be made in installments, and in advance or by way of reimbursements, as may be determined by the Secretary, and shall be made on such conditions as he finds necessary to carry out the purposes of this subsection.

### Workshop Improvement Grants

(b)(1) The Secretary is authorized to make grants to public or other nonprofit workshops during the fiscal year ending June 30, 1966, and each of the four succeeding fiscal years to pay part of the cost of projects to analyze, improve, and increase their professional services to the handicapped, their business managements, or any other part of their operations affecting their capacity to provide employment and services for the handicapped.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

(3) Payments under this subsection may be made in installments, and in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made on such conditions as he finds necessary to carry out the purposes of this subsection.

### Technical Assistance to Workshops

(c)(1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, to provide technical assistance to workshops.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per diem, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expense Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

### National Policy and Performance Council

(d)(1) There is hereby established in the Department of Health, Education, and Welfare a National Policy and Performance Council, consisting of twelve members, not otherwise in the regular full-time employ of the United States, appointed by the Secretary without regard to the civil service laws. The Secretary shall from time to time appoint one of the members to serve as Chairman. The appointed members shall be selected from among leaders in the vocational rehabilitation or workshop fields, State or local government, and business and from among representatives of related professions, labor leaders, and the general public. Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the twelve members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Secretary at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed after the end of his preceding term.

(2) The Council shall (A) advise the Secretary with respect to the policies and criteria to be used by him in determining whether or not to make grants under subsection (a); (B) make recommendations to the Secretary with respect to workshop improvement and the extent to which this section is effective in accomplishing this purpose; and (C) perform such other services with respect to workshops as the Secretary may request.

(3) The Secretary shall make available to the Council such technical, administrative, and other assistance as it may require to carry out its functions.

(4) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(e) The Secretary shall make no grant under this section to any workshop or rehabilitation facility which does not comply with safety standards which the Secretary of Labor shall prescribe by regulation.

(f) There is authorized to be appropriated for making grants under subsection (a) and subsection (b) of this section $1,500,000 for the fiscal year ending June 30, 1966, $9,000,000 for the fiscal year ending June 30, 1967, $14,000,000 for the fiscal year ending June 30, 1968, and for each of the three succeeding fiscal years only such sums may be appropriated for making grants under subsection (a) and subsection (b) of this section as the Congress may hereafter authorize by law.

### WAVIER OF STATEWIDENESS REQUIREMENTS FOR LOCALLY FINANCED ACTIVITY

29 U.S.C. 41c.

SEC. 14. In the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or the vocational rehabilitation of individuals with particular types of disabilities in a State or States, the Secretary may waive compliance, with respect to vocational rehabilitation services furnished as part of such activity, with the requirement of section 5(a)(3) that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a political subdivision of the State (including, to the extent permitted by such regulations, funds contributed to such subdivision by a private agency, organization, or individual).

### NATIONAL COMMISSION ON ARCHITECTURAL BARRIERS TO REHABILITATION OF THE HANDICAPPED

29 U.S.C. 41d.

SEC. 15. (a) There is hereby established in the Department of Health, Education, and Welfare a National Commission on Architectural Barriers to Rehabilitation of the Handicapped, consisting of the Secretary, or his designee, who shall be Chairman, and not more than fifteen members appointed by the Secretary without regard to the civil service laws. The fifteen appointed members shall be representative of the general public, and of private and professional groups having an interest in and able to contribute to the solution of architectural problems which impede the rehabilitation of the handicapped.

(b) The Commission shall (1) determine how and to what extent architectual barriers impede access to or use of facilities in buildings of all types by the handicapped; (2) determine what is being done, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with the problem, to eliminate such barriers from existing buildings and to prevent their incorporation into buildings constructed in the future; and (3) prepare plans and proposals for such further action as may be necessary to achieve the goal of ready access to and full use of facilities in buildings of all types by the handicapped, including propsals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward that goal or whose cooperation is essential to effective and comprehensive action.

(c) The Commission is authorized to appoint such special advisory and technical experts and consultants, and to establish such committees, as may be useful in carrying out its functions, to make studies, and to contract for studies or demonstrations to assist it in performing its functions. The Secretary shall make available to the Commission such technical, administrative and other assistance as it may require to carry out its functions.

(d) Appointed members of the Commission and special advisory and technical experts and consultants appointed pursuant to subsection (c) shall, while attending meetings or conferences thereof or otherwise serving on business of the Commission, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business they may be allowed travel expenses including per diem in leu of subsistence as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(e) The Commission shall, prior to January 1, 1968, submit a final report of its activities, together with its recommendations for further carrying out the purposes of this section, to the Secretary for transmission by him together with his recommendations to the President and then to the Congress. The Commission shall also prepare such interim reports as the Secretary may request.

(f) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1966, and each of the two succeeding fiscal years, the sum of $250,000 for carrying out the purposes of this section.

### TRANSITION PROVISIONS

SEC. 16. (a) In the case of any State which, immediately prior to July 1, 1954, was carrying on a vocational rehabilitation program under a State plan approved under this Act, such State plan shall be deemed to be a State plan approved under section 5 of this Act until (1) the Secretary finds, after reasonable notice and opportunity for a hearing to the State agency, that such plan has been so changed that it no longer complies

29 U.S.C. 31 note.

with any provision required to be included in such plan under this Act as in effect prior to the enactment of the Vocational Rehabilitation Amendments of 1954, or in the administration of such plan there is a failure to comply substantially with any such provision, or (2) the plan is superseded by a plan approved under section 5 of this Act, or (3) July 1, 1955, whichever occurs first.

(b) Sums appropriated for grants to States for the fiscal year ending June 30, 1955, pursuant to the Vocational Rehabilitation Act in effect prior to the enactment of the Vocational Rehabilitation Amendments of 1954 (including the portion of sums made available to the Secretary for rehabilitation services in the District of Columbia) shall be deemed to have been made available for grants to States under section 2 of this Act. Payments made from such sums to a State prior to the enactment of the Vocational Rehabilitation Amendments of 1954 (including payments made from such sums before or after such enactment for vocational rehabilitation services in the District of Columbia) shall be deemed to have been paid under this Act from the State's allotment under such section 2.

## SHORT TITLE

**** SEC. 17. This Act may be cited as the "Vocational Rehabilitation Act."

## NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

81 Stat. 251. SEC. 17. (a) In order—

(1) to demonstrate methods of (A) providing the specialized, intensive services, as well as other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specially designed to provide such services and training such personnel who have been or will be working with the deaf-blind;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, the deaf-blind; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of the deaf-blind;

the Secretary is authorized to enter into an agreement with any public or nonprofit private agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind which shall be known as the National Center for Deaf-Blind Youths and Adults.

(b) Any agency or organization desiring to enter into such an agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed by the Secretary. In considering such proposals, the Secretary shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of the National Center for Deaf-Blind Youths and Adults, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of the deaf-blind.

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****Section 3 of P.L. 89-333 redesignated this section as section 17. Section 4 of P.L. 90-99 added the following section which is also designated as section 17.

(c) The agreement shall—

"(1) provide that Federal funds paid to the agency or organization for the Center will be used only for the purposes for which paid and in accordance with the applicable provisions of this section and the agreement made pursuant thereto;

(2) provide that the agency or organization making the agreements will make an annual report to the Secretary, which the Secretary in turn shall transmit to the Congress with such comments and recommendations as he may deem appropriate;

(3) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); with the Secretary of Labor having, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this section.

(d) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to an agreement under this section the facility constructed ceases to be used for the purposes for which it was constructed or the agreement is terminated, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(e) For purposes of this section—

(1) the term "construction" means construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered, or renovated buildings; and

includes the cost of architects' fees and acquisition of land in connection with any of the foregoing, but does not include the cost of off-site improvements;

(2) the determination of who are both deaf and blind shall be made in accordance with regulations of the Secretary.

### PROJECT GRANTS FOR SERVICES FOR MIGRATORY AGRICULTURAL WORKERS

81 Stat. 252. SEC 18. (a) The Secretary is authorized to make grants to any State agency designated pursuant to a State plan approved under section 5, or to any local agency participating in the administration of such a plan, for not to exceed 90 per centum of the cost of pilot or demonstration projects for the provision of vocational rehabilitation services to handicapped individuals who, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of that individual. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under the Vocational Rehabilitation Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public and private nonprofit agencies having special skills and experience in the provision of services to migratory agricultural workers or their families. This section shall be administered in coordination with other provisions of law dealing specifically with migrant agricultural workers, including title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, and the Farm Labor Contractor Registration Act of 1963.

20 U.S.C. 241a.
42 U.S.C. 2861.
7 U.S.C. 2041 note.

## Legislative History

### VOCATIONAL REHABILITATION ACT, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*68th Congress*—P.L. 236

H.R. 4438:
- H. Rept. 145 (Committee on Education).
- Congressional Record, vol. 58 (1919):
  - Oct. 9, 11, 14, 16: Considered in House.
  - Oct. 17: Considered and passed, House, amended.
- Congressional Record, vol. 59 (1920):
  - Apr. 12: Considered and passed Senate, amended.
  - May 25: House agreed to Senate amendment.

*68th Congress*—P.L. 200

H.R. 5478:
- H. Rept. 164 (Committee on Education).
- Congressional Record, vol. 65 (1924):
  - May 10: Considered and passed House.
  - June 3: Considered and passed Senate, amended.
  - June 4: Senate and House agreed to conference report.

*71st Congress*—P.L. 317

H.R. 10175:

- H. Repts. 742 (Committee on Education) and 1792 (committee of conference).
- S. Rept. 642 (Committee on Education and Labor).
- Congressional Record, vol. 72 (1930):
  - Apr. 28: Considered and passed House.
  - May 22: Considered and passed Senate, amended.
  - June 5: House and Senate agreed to conference report.

*72d Congress*—P.L. 222

H.R. 4743:

- H. Rept. 898 (Committee on Education).
- S. Rept. 821 (Committee on Education and Labor).
- Congressional Record, vol. 75 (1932):
  - May 18: Considered and passed House.
  - June 27: Considered and passed Senate.

*78th Congress*—P.L. 113

H.R. 2536:

- H. Repts. 426 (Committee on Education), and 613 (committee of conference).
- S. Rept. 320 (Committee on Education and Labor).
- Congressional Record, vol. 89 (1943):
  - June 10: Considered and passed House.
  - June 22: Considered and passed Senate, amended.
  - June 29: House and Senate agreed to conference report.

*83d Congress*—P.L. 565

S. 2759:

- S. Rept. 1626 (Committee on Labor and Public Welfare).
- H. Repts. 1941 (Committee on Education), and 2286 (committee of conference).
- Congressional Record, vol. 100 (1954):
  - July 6: Considered in Senate.
  - July 7: Considered and passed Senate.
  - July 8: Considered and passed House, amended (in lieu of H.R. 9640).
  - July 19: Senate agreed to conference report.
  - July 21: House agreed to conference report.

*89th Congress*—P.L. 89–333.

H.R. 8310:

- House Repts. 432 (Committee on Education and Labor) and 1204 (committee of conference).
- S. Rept. 806 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 111 (1965):
  - July 29: Considered and passed House.
  - Oct. 1: Considered and passed Senate, amended.
  - Oct. 21: Senate agreed to conference report.
  - Oct. 22: House agreed to conference report.

*90th Congress*—P.L. 90–99

H.R. 12257:

- H. Rept. 563 (Committee on Education and Labor).
- S. Rept. 565 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 113 (1967):
  - Aug. 21: Considered and passed House.
  - Sept. 20: Considered and passed Senate.

## 11. LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR THE DEAF AND HANDICAPPED, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on September 1, 1958, as Public Law 85–905 (72 Stat. 1742), 42 U.S.C. 2491. Amended on September 28, 1962, by P.L. 87–715 (76 Stat. 654); on October 19, 1965, by P.L. 89–258 (79 Stat. 984); and on January 2, 1968, by P.L. 90–247 (81 Stat. 804).**

AN ACT To provide in the Department of Health, Education, and Welfare for a loan service of captioned films for the deaf.

*Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,*

### PURPOSES

SECTION 1. That the objectives of this Act are— 42 U.S.C. 2491.

(a) to promote the general welfare of deaf persons by (1) bringing to such persons understanding and appreciation of those films which play such an important part in the general and cultural advancement of hearing persons, (2) providing through these films, enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (3) providing a wholesome and rewarding experience which deaf persons may share together; and

(b) to promote the educational advancement of handicapped persons by (1) carrying on research in the use of educational media for the handicapped, (2) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and 3 training persons in the use of educational media for the instruction of the handicapped. 81 Stat. 804.

### DEFINITIONS

SEC. 2. As used in this Act— 42 U.S.C. 2492.

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "United States" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(3) The term "deaf person" includes a person whose hearing is severely impaired.

(4) The term "handicapped" means deaf, mentally retarded, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired persons. 81 Stat. 805.

### LOAN SERVICE ESTABLISHED

42 U.S.C. 2493.

SEC. 3. (a) In order to carry out the objectives of this Act, the Secretary shall establish a loan service of captioned films and educational media for the purpose of making such materials available in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of the handicapped in accordance with regulations promulgated by the Secretary.

(b) In carrying out the provisions of this Act, the Secretary shall have authority to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary to the administration of this Act;

(3) provide for the captioning of films;

(4) provide for the distribution of captioned films and other educational media and equipment through State schools for the handicapped and such other agencies as the Secretary may deem appropriate to serve as local or regional centers for such distribution;

81 Stat. 805.

(5) provide for the conduct of research in the use of educational and training films and other educational media for the handicapped, for the production and distribution of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media; including the payment to those persons of such stipends (including allowances for travel and other expenses of such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs[1];

(6) utilize the facilities and services of other governmental agencies; and

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations.

### APPROPRIATIONS

42 U.S.C. 2494.
81 Stat. 805.

SEC. 4. There are hereby authorized to be appropriated not to exceed $3,000,000 annually for each of the fiscal years 1966 and 1967, $8,000,000 annually for each of the fiscal years 1968 and 1969, and $10,000,000 annually for fiscal year 1970 and each succeeding fiscal year thereafter.

### NATIONAL ADVISORY COMMITTEE

42 U.S.C. 2495.

SEC. 5. (a)(1) For the purpose of advising and assisting the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") with respect to the education of the deaf, there is hereby created a National Advisory Committee on Education of the Deaf, which shall consist of twelve persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws.

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[1] Section 155(d) of Public Law 90-247 provides that the addition of the clause beginning with "including the payment . . ." at the end of subsection (b)(5) of section 3 shall take effect on the date of enactment of Public Law 90-247, except that as to payments made pursuant to section 3 prior to such date this amendment shall be effective as of September 28, 1962.

(2) The membership of the Advisory Committee shall include educators of the deaf, persons interested in education of the deaf, educators of the hearing, and deaf individuals.

(3) The Secretary shall from time to time designate one of the members of the Advisory Committee to serve as Chairman of the Advisory Committee.

(4) Each member of the Advisory Committee shall serve for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and except that the terms of the office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year after the date of appointment.

(5) A member of the Advisory Committee shall not be eligible to serve continuously for more than one term.

(b) The Advisory Committee shall advise the Secretary concerning the carrying out of existing and the formulating of new or modified programs with respect to the education of the deaf. In carrying out its functions, the Advisory Committee shall (A) make recommendations to the Secretary for the development of a system for gathering information on a periodic basis in order to facilitate the assessment of progress and identification of problems in the education of the deaf; (B) identify emerging needs respecting the education of the deaf, and suggest innovations which give promise of meeting such needs and of otherwise improving the educational prospects of deaf individuals; (C) suggest promising areas of inquiry to give direction to the research efforts of the Federal Government in improving the education of the deaf; and (D) make such other recommendations for administrative action or legislative proposals as may be appropriate.

(c) The Secretary may, at the request of the Advisory Committee appoint such special advisory professional or technical personnel as may be necessary to enable the Advisory Committee to carry out its duties.

(d) Members of the Advisory Committee, and advisory or technical personnel appointed pursuant to subsection (c), while attending meetings or conferences of the Advisory Committee or otherwise serving on business of the Advisory Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day including travel time and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section

5 of the Administrative Expenses Act (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(e) The Advisory Committee shall meet at the request of the Secretary, but at least semiannually.

### Legislative History

LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR THE DEAF AND HANDICAPPED, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*85th Congress*—P.L. 85-905

H.R. 13678:

- House Rept. No. 2645 (Committee on Education and Labor).
- Senate Rept. No. 1058, to accompany S. 1889 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 104 (1958):
  - Aug. 15: Considered and passed House.
  - Aug. 21: Considered and passed Senate.

*87th Congress*—P.L. 87-715

S. 2511:

- Senate Rept. No. 1870 (Committee on Labor and Public Welfare).
- House Rept. No. 2366 (Committee on Education and Labor).
- Congressional Record, vol. 108 (1962):
  - Aug. 9: Considered and passed Senate.
  - Sept. 17: Considered and passed House, amended.
  - Sept. 18: Senate agreed to House amendments.

*89th Congress*—P.L. 89-258

S. 2232:

- H. Rept. No. 1034 (Committee on Education and Labor).
- S. Rept No. 649 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 111 (1965):
  - Aug. 31: Considered and passed Senate.
  - Oct. 5: Considered and passed House.

*90th Congress*—P.L. 90-247

H.R. 7819:

- H. Repts. No. 188 (Committee on Education and Labor) and 1049 (committee of conference).
- S. Rept No. 726 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 113 (1967):
  - May 22-24: Considered and passed House.
  - Dec. 1, 4-8, 11: Considered and passed Senate amended.
  - Dec. 15: House and Senate agreed to conference report.

## 12. GRANTS FOR TEACHING IN THE EDUCATION OF HANDICAPPED CHILDREN, AS AMENDED THROUGH THE 90th CONGRESS, FIRST SESSION

**Enacted on September 6, 1958, as P.L. 85–926 (72 Stat. 1777), 20 U.S.C. 611. Amended on August 14, 1959 by P.L. 86–158 (73 Stat. 346); on October 31, 1963 by P.L. 88–164 (77 Stat. 294); on August 4, 1965 by P.L. 89–105 (79 Stat. 430); and on December 4, 1967 by P.L. 90–170 (81 Stat. 530).**

**AN ACT To encourage expansion of teaching in the education of mentally retarded children through grants to institutions of higher learning and to State educational agencies.**

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,***

### GRANTS TO PUBLIC OR NONPROFIT INSTITUTIONS

**Section 1. The Commissioner of Education is authorized to make grants to public or other nonprofit institutions of higher learning to assist them in providing training of professional personnel to conduct training of teachers in fields related to education of mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education (hereinafter in this chapter referred to as "handicapped children"). He is also authorized to make grants to public or other nonprofit institutions of higher learning to assist them in providing professional or advanced training for personnel engaged or preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, or as speech correctionists or other specialists providing special services for education of such children, or engaged or preparing to engage in research in fields related to education of such children. Grants under this section may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships, with such stipends as may be determined by the Commissioner of Education. The Commissioner is also authorized to make grants to public or other nonprofit institutions of higher learning to assist them in establishing and maintaining scholarships, with such stipends as may be determined by the Commissioner, for training personnel preparing to engage in employment as teachers of the deaf.** 20 U.S.C. 611.

### GRANTS TO STATE EDUCATIONAL AGENCIES FOR FELLOWSHIPS

**Sec. 2. The Commissioner of Education is also authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to** 20 U.S.C. 612.

public or other nonprofit institutions of higher learning, fellowships or traineeships for training personnel engaged or preparing to engage in employment as teachers of handicapped children or as supervisors of such teachers. Such grants shall also be available to assist such institutions in meeting the costs of training such personnel.

### PAYMENT OF GRANTS

20 U.S.C. 613. SEC. 3. Payments of grants pursuant to this chapter may be made by the Commissioner of Education from time to time, in advance or by way of reimbursement, on such conditions as the Commissioner may determine.

### REPORT TO COMMISSIONER

20 U.S.C. 614. SEC. 4. Each State educational agency and each public or other nonprofit institution of higher education which receives a grant under this chapter during a fiscal year shall after the end of such fiscal year submit a report to the Commissioner of Education. Such report shall contain a detailed financial statement showing the purposes for which the funds granted under this chapter were expended.

### DEFINITIONS

SEC. 5. For purposes of this chapter—

20 U.S.C. 615. (a) The term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools in the State.

(c) The term "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and American Samoa.

### DELEGATION OF FUNCTIONS

20 U.S.C. 616. SEC. 6. The Commissioner of Education is authorized to delegate any of his functions under this chapter, except the making of regulations, to any officer or employee of the Office of Education.

### AUTHORIZATION OF APPROPRIATION

20 U.S.C. 617. SEC. 7. There are authorized to be appropriated for carrying out this chapter $19,500,000 for the fiscal year ending June 30, 1966; $29,500,000 for the fiscal year ending June 30, 1967; $34,000,000 for the fiscal year ending June 30, 1968; $37,500,000 for the fiscal year ending June 30, 1969, and $55,000,000 for for the fiscal year ending June 30, 1970. 81 Stat. 530.

## Legislative History

### GRANTS FOR TEACHING IN THE EDUCATION OF HANDICAPPED CHILDREN, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

*85th Congress*—P.L. 85–926

H.R. 13840:
  H. Rept. No. 2644 (Commission on Education and Labor) Congressional Record, vol. 104 (1958):
    Aug. 22: Considered and passed House.
    Aug. 23: Considered and passed Senate.

*86th Congress*—P.L. 86–158

H.R. 6769:
  H. Repts. No. 309 (Commission on Appropriations) and No. 734 (Commission of conference).
  Senate Report No. 425 (Commission on Appropriations).
  Congressional Record, vol. 105 (1959):
    Apr. 30: Considered and passed House.
    June 24: Considered and passed Senate.
    July 30: House and Senate agreed to conference report.

*88th Congress*—P.L. 88–164

S. 1576:
  S. Rept. No. 180 (Committee on Labor and Public Welfare).
  H. Repts. No. 694 (Committee on Interstate and Foreign Commerce) and No. 862 (comm. of conference).
  Congressional Record, vol. 109 (1963):
    May 27: Considered and passed Senate.
    Sept. 10: Considered and passed House.
    Oct. 21: Senate and House agreed to conference report.

*89th Congress*—P.L. 89–105

H.R. 2985
  H. Repts. No. 248 (Commission on Interstate and Foreign Commerce) and No. 678 (committee of conference).
  S. Rept. No. 366 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 111 (1965):
    May 4: Considered and passed House.
    June 28: Considered and passed Senate, amended.
    July 26: Senate agreed to conference report.
    July 27: House agreed to conference report.

*90th Congress*—P.L. 90–170

H.R. 6430
  H. Repts. No. 562 (Commission on Interstate and Foreign Commerce) and No. 954 (committee of conference).
  S. Rept. No. 725 (Commission on Labor and Public Welfare).
  Congressional Record, vol. 113 (1967):
    Sept. 20: Considered and passed House.
    Nov. 6: Considered and passed Senate, amended.
    Nov. 21: House and Senate agreed to conference report.

## 13. TRAINING OF TEACHERS OF MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN—TITLE III OF THE MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT OF 1963, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on October 31, 1963, as P.L. 88-164 (77 Stat. 282), 20 U.S.C. 618. Amended on August 4, 1965 by P.L. 89-105 (79 Stat. 429, 430); on December 4, 1967 by P.L. 90-170 (81 Stat. 530); and on January 2, 1968 by P.L. 90-247 (81 Stat. 805).**

AN ACT To provide assistance in combating mental retardation through grants for construction of research centers and grants for facilities for the mentally retarded and assistance in improving mental health through grants for construction of community mental health centers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963".

* * * *

## TITLE III—TRAINING OF TEACHERS OF MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

SEC. 301. *Section 301 amended provisions of P.L. 85-926, Grants for Teaching in the Education of Handicapped Children,* 20 U.S.C. 611 et seq.

### RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

SEC. 302. (a) There is authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1966; $9,000,000 for fiscal year ending June 30, 1967; $12,000,000 for fiscal year ending June 30, 1968; $14,000,000 for fiscal year ending June 30, 1969, and $18,000,000 for the fiscal year ending June 30, 1970, to enable the Commissioner of Education to make grants to States, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations for research or demonstration projects, and to make contracts with States, State or local educational agencies, public and private institutions of higher learning, and other public or private educational or research agencies and organizations, for research and related purposes (as defined in this section) and to 20 U.S.C. 618. 81 Stat. 805. 81 Stat. 805.

conduct research, surveys, or demonstrations, relating to education for mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education (hereinafter in this section referred to as "handicapped children"). Payments pursuant to grants or contracts under this section may be made in installments, in advance or by way of reimbursement, and on such conditions as the Commissioner of Education may determine.

(b) The Commissioner of Education is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to particular fields of education of handicapped children or relating to special services necessary thereto or special problems involved therein.

(c) The Commissioner of Education shall also from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of such a panel before making any such grant in the field in which such experts are competent.

(d) Members of any committee or panel appointed under this section who are not regular full-time employees of the United States shall, while serving on the business of such committee or panel, be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding $75 per day, including travel time; and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(e) The Commissioner of Education is authorized to delegate any of his functions under this section, except the promulgation of regulations, to any officer or employee of the Office of Education.

(f) For the purposes of this section the Commissioner of Education may make grants to institutions of higher education for the construction, equipping, and operation of a facility for research, or for research and related purposes (as defined in this section).

(g) All laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of any project under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(h) As used in this section the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and

(B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(i) As used in this section, the term "research and related purposes" means research, research training, surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental schools.

## TITLE IV—GENERAL

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## TITLE V—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

81 Stat. 530.

### GRANTS: AUTHORIZATION OF APPROPRIATIONS

SEC. 501. (a) The Secretary is authorized to make grants to public and other nonprofit institutions of higher learning to assist them in providing professional or advanced training for personnel engaged or preparing to engage in employment as physical educators or recreation personnel for mentally retarded and other handicapped children (as defined in the first section of the Act of September 6, 1958 (20 U.S.C. 611)) or as supervisors to such personnel, or engaged or preparing to engage in research or teaching in fields related to the physical education or recreation of such children.

(b) For the purpose of making the grants authorized under subsection (a), there is authorized to be appropriated for the fiscal year ending June 30, 1968, $1,000,000; for the fiscal year ending June 30, 1969, $2,000,000; and for the fiscal year ending June 30, 1970, $3,000,000. Any sums appropriated for any such fiscal year and not obligated before the end thereof shall remain available for the succeeding fiscal year for the purpose for which appropriated.

### RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

SEC. 502. (a)(1) There is authorized to be appropriated for the fiscal year ending June 30, 1968, $1,000,000, and for each of the two succeeding fiscal years, $1,500,000, to enable the Secretary to make grants to States, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations, for research or demonstration projects relating to physical education or recreation for mentally retarded and other handicapped children (as defined in the first section of the Act of September 6, 1958 (20 U.S.C. 611)).

(2) Grants under paragraph (1) shall be made in installments, in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

(b) The Secretary shall from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of one such panel before making any grant under this section.

### ADVISORY COMMITTEE

SEC. 503. (a)(1) The Secretary shall appoint an advisory committee which shall consist of seven members to advise him on matters of general policy relating to the administration of this title. Three members of such committee shall be individuals from the field of physical education, two members thereof shall be individuals from the field of recreation, and two members thereof shall be individuals with experience or special interest in the education of the mentally retarded or other handicapped children.

(2) The Secretary shall, from time to time, designate one of the members of such committee to serve as the chairman thereof.

(b) Members of the advisory committee and members of any panel appointed pursuant to section 502(b), who are not regular full-time employees of the United States, shall, while serving on the business of such committee or such panel, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

### Legislative History

MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT OF 1963, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

*88th Congress*—P.L. 88-164

S. 1576:

- S. Rept. No. 180 (Committee on Labor and Public Welfare).
- H. Repts. No. 694 (Committee on Interstate and Foreign Commerce) and No. 862 (committee of conference).
- Congressional Record, vol. 109 (1963):
  - May 27: Considered and passed Senate.
  - Sept. 10: Considered and passed House.
  - Oct. 21: Senate and House agreed to conference report.

*89th Congress*—P.L. 89–105

H.R. 2985:

H. Repts. No. 248 (Commission on Interstate and Foreign Commerce) and No. 678 (committee of conference).

S. Rept. No. 366 (Committee on Labor and Public Welfare).

Congressional Record, vol. 111 (1965):

May 4: Considered and passed House.

June 28: Considered and passed Senate, amended.

July 26: Senate agreed to conference report.

July 27: House agreed to conference report.

*90th Congress*—P.L. 90–170

H.R. 6430

H. Repts. No. 562 (Committee on Interstate and Foreign Commerce) and No. 954 (committee of conference).

S. Rept. No. 725 (Committee on Labor and Public Welfare).

Congressional Record, vol. 113 (1967):

Sept. 20: Considered and passed House.

Nov. 6: Considered and passed Senate, amended.

Nov. 21: House and Senate agreed to conference report.

*90th Congress*—P.L. 90–247

H.R. 7819

H. Repts. No. 188 (Committee on Education and Labor) and No. 1049 (committee of conferecne).

S. Rept. No. 726 (Committee on Labor and Public Welfare).

Congressional Record, vol. 113 (1967):

May 22–24: Considered and passed House.

Dec. 1, 4–8, 11: Considered and passed Senate amended.

Dec. 15: House and Senate agreed to conference report.

## 14. YOUTH WORK-STUDY PROGRAMS—TITLE I, PART C OF THE ECONOMIC OPPORTUNITY ACT OF 1964, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on August 20, 1964, 12 P. L. 88–452 (78 Stat. 508), 42 U.S.C. 2751. Amended on October 9, 1965, by P.L. 89–329 79 Stat. 973); on November Amended on October 9, 1965, by P.L. 89–253 (79 Stat. 973); on November 8, 1965, by P.L. 89–329 (79 Stat. 1219); on November 3, 1966, by P.L. 89–750 (80 Stat. 1191); on September 6, 1967 68 P.L. 90–82 (81 Stat. 194); and on December 23, 1967, 68 P.L. 90–222 81 Stat. 672).**

AN ACT To mobilize the human and financial resources of the Nation to combat poverty in the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Economic Opportunity Act of 1964".

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## TITLE I—YOUTH PROGRAMS

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### PART C—WORK-STUDY PROGRAMS [1]

#### STATEMENT OF PURPOSE

SEC. 141. The purpose of this part is to stimulate and promote the part-time employment of students, particularly students from low-income families, in institutions of higher education who are in need of the earnings from such employment to pursue courses of study at such institutions. 42 U.S.C. 2751.

#### ALLOTMENTS TO STATES

SEC. 142. (a) From the sums appropriated to carry out this title for a fiscal year, the Commissioner of Education (hereinafter in this part referred to as the "Commissioner") shall reserve the amount needed for making grants under section 123. Not to exceed 2 per centum of the amount so reserved shall be alloted by the Commissioner among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part. The remainder of the sums so reserved shall be allotted among the States as provided in subsection (b). 42 U.S.C. 2752.

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[1] By section 111 of P.L. 90–222 former sections 121 through 125 of part C, Title I, of the Economic Opportunity Act have been redesignated sections 141 through 145. The major revision of the Economic Opportunity Act of 1964 made by P.L. 90–222 is set out in this committee print in the section on enactments by the 90th Congress, first session.

(b) Of the sums being allotted under this subsection—

(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States,

(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States, and

(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

(c) The amount of any State's allotment which has not been granted to an institution of higher education under section 123 at the end of the fiscal year for which appropriated shall be reallotted by the Commissioner, in such manner as he determines will best assist in achieving the purpose of this Act. Amounts reallotted under this subsection shall be available for making grants under section 123 until the close of the fiscal year next succeeding the fiscal year for which. appropriated.

(d) For purposes of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

### GRANTS FOR WORK-STUDY PROGRAMS

42 U.S.C. 2753.

SEC. 143. (a) The Commissioner is authorized to enter into agreements with institutions of higher education under which the Commissioner will make grants to such institutions to assist in the operation of work-study programs as hereinafter provided.

(b) For the purposes of this part—

(1) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting

agency or association approved by the Commissioner for this purpose or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (A), (B), (D), and (E). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (E) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (I) prescribe the standards of constant, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (II) determine whether particular schools not meeting the requirements of clause (E) meet those standards. For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(2) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree or to a graduate degree in nursing.

(3) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(4) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner.

### CONDITIONS OF AGREEMENT

42 U.S.C. 2754.

SEC. 144. An agreement entered into pursuant to section 123 shall—

(a) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself or work in the public interest for a public or private nonprofit organization under an arrangement between the institution and such organization, and such work—

(1) will not result in the displacement of employed workers or impair existing contracts for services,

(2) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type or work performed, geographical region, and proficiency of the employee, and

(3) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(b) provide that funds granted an institution of higher education, pursuant to section 123 may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses, but the amount so used may not exceed 5 per centum of the payments made by the Commissioner to such institution for that part of the work-study program in which students are working for public or nonprofit organizations other than the institution itself:

(c) provide that in the selection of students for employment under such work-study program preference shall be given to students from low-income families and that employment under such work-study program shall be furnished only to student who (1) is in need of the earnings from such employment in order to pursue a course of study at such institution, (2) is capable in the opinion of the institution, of maintaining good standing in such course of study while employed under the program covered by the agreement, and (3) has been accepted for enrollment as a full-time student at the institution or, in the case of a student already enrolled in and attending the institution, is in good standing and in full-time attendance there either as an undergraduate, graduate, or professional student;

81 Stat. 194.

(d) provide that the average hours of employment of a student under such work-study program shall not exceed fifteen per week over a semester, or other term used by the institution in awarding credits, during which the student is enrolled in classes;

(e) provide that in each fiscal year during which the agreement remains in effect, the institution shall expend (from sources other than payments under this part) for the employment of its students (whether or not in employment eligible for assistance under this part) an amount that is not less than its average annual expenditure for such employment during the three fiscal years preceding the fiscal year in which the agreement is entered into;

(f) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 90 per centum of such compensation for work performed during the period ending three years after the date of enactment of this Act, 85 per centum during the fourth year after such date, 80 per centum during the fifth year after such date, and 75 per centum thereafter;

(g) include provisions designed to make employment under such work-study program, or equivalent employment offered or arranged for by the institution, reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and 81 Stat. 194.

(h) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part.

### SOURCES OF MATCHING FUNDS

**Sec. 145.** Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution. 42 U.S.C. 2756.

### EQUITABLE DISTRIBUTION OF ASSISTANCE

**Sec. 126.** The Commissioner shall establish criteria designed to achieve such distribution of assistance under this part among institutions of higher education within a State as will most effectively carry out the purposes of this Act.

*Section 111(f) of Public Law 89-75C provides for coordination of the programs of Acts amended by Public Law 89-750 as follows:*

> "In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall (1) coordinate with such programs on the Federal level with the programs being administered by such other departments and agencies, and (2) require that effective procedures be adopted by State and local authorities to coordinate the development and operation of programs and projects carried out under such Acts with other public and private programs having the same or similar purposes, including community action programs under title II of the Economic Opportunity Act of 1964."

## Legislative History

### ECONOMIC OPPORTUNITY ACT OF 1964, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*88th Congress*—P.L. 88–452

S. 2642:
- S. Rept. 1218 (Committee on Labor and Public Welfare).
- H. Rept. 1458 (Committee on Education and Labor).
- Congressional Record, vol. 110 (1964):
  - July 21, 22: Considered in Senate.
  - July 23: Considered and passed Senate.
  - Aug. 8: Considered and passed House, amended in lieu of H.R. 11377.
  - Aug. 11: Senate concurred in House amendment.

*89th Congress*

(P.L. 89–253)

H.R. 8283:
- H. Repts. 428 (Committee on Education and Labor) and 1001 and 1061 (committee of conference).
- S. Rept. 599 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 111 (1965):
  - July 20, 21: Considered in House.
  - July 22: Considered and passed House.
  - Aug. 16–18: Considered in Senate.
  - Aug. 19: Considered and passed Senate, amended.
  - Sept. 15: Considered in House.
  - Sept. 23: House agreed to conference report.
  - Sept. 24: Senate agreed to conference report.

(P.L. 89–329)

H.R. 9567:
- H. Repts. 621 (Committee on Education and Labor) and 1178 (committee of conference).
- S. Rept. 673 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 111 (1965):
  - Aug. 26: Considered and passed House.
  - Sept. 1: Considered in Senate.
  - Sept. 2: Considered and passed Senate, amended.
  - Oct. 20: House and Senate agreed to conference report.

(P.L. 89–750)

H.R. 13161:
- H. Repts. 1814, 1814 pt. II (Committee on Education and Labor) and 2309 (committee of conference).
- S. Rept. 1674 accompanying S. 3046 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 112 (1966):
  - Oct. 5: Considered in House.
  - Oct. 6: Considered and passed House.
  - Oct. 5, 6: S. 3046 considered and passed Senate.
  - Oct. 7: Considered and passed Senate, amended in lieu of S. 3046.
  - Oct. 19: Senate agreed to conference report.
  - Oct. 20: House agreed to conference report.

*90th Congress*

(P.L. 90–82)

H.R. 11945:
- H. Rept. No. 543 (Committee on Education and Labor).
- S. Rept. No. 539 (Committee on Labor and Public Welfare):
- Congressional Record, vol. 113 (1967):
  - Aug. 10: Considered and passed House.
  - Aug 25: Considered and passed Senate.

S. 2388:
- H. Repts. No. 806 (Committee on Education and Labor) and No. 1012 (committee of conference).
- S. Rept. No. 563 (Committee on Labor and Public Welfare).
- Congressional Record, vol. 113 (1967):
  - Sept. 22, 25–29, Oct. 3–5, Dec. 8: Considered and passed Senate.
  - Nov. 3, 7, 8, 13–15, Dec. 11: Considered and passed House.

## 15. VETERANS' READJUSTMENT BENEFITS ACT OF 1966, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on March 3, 1966 as P.L. 89–358 (80 Stat. 12). Amended on August 31, 1967 by P.L. 90–77 (81 Stat. 178).**

**AN ACT To Provide readjustment assistance to veterans who serve in the Armed Forces during the induction period.**

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,***

### SHORT TITLE

**SECTION 1. This Act may be cited as the "Veterans' Readjustment Benefits Act of 1966".**

### EDUCATIONAL BENEFITS

**SEC. 2. Part III of title 38, United States Code, is amended by inserting immediately after chapter 31 thereof the following new chapter:**

## CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

### SUBCHAPTER I—PURPOSE—DEFINITIONS

Sec.
1651. Purpose.
1652. Definitions.

### SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

1661. Eligibility; entitlement; duration.
1662. Time limitations for completing a program of education.
1663. Educational and vocational counseling.

### SUBCHAPTER III—ENROLLMENT

1670. Selection of program.
1671. Applications; approval.
1672. Change of program.
1673. Disapproval of enrollment in certain courses.
1674. Discontinuance for unsatisfactory conduct or progress.
1675. Period of operation for approval.
1676. Education outside the United States.
1677. Flight training.
1678. Special training for the educationally disadvantaged.

### SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS

1681. Educational assistance allowance.
1682. Computation of educational assistance allowances.
1683. Apprenticeship or other on-job training.
1684. Measurement of courses.
1685. Overcharges by educational institutions.
1686. Approval of courses.
1687. Discontinuance of allowances.

## SUBCHAPTER I—PURPOSE—DEFINITIONS

### § 1651. Purpose

The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

### § 1652. Definitions

For the purposes of this chapter—

(a)(1) The term "eligible veteran" means any veteran who (A) served on active duty for a period of more than 180 days any part of which occurred after January 31, 1955, and who was discharged or released therefrom under conditions other than dishonorable or (B) was discharged or released from active duty after such date for a service-connected disability.

(2) The requirement of discharge or release, prescribed in paragraph (1)(A), shall be waived in the case of any individual who served at least two years in an active-duty status for so long as he continues on active duty without a break therein.

(3) For purposes of paragraph (1)(A) and section 1661(a), the term "active duty" does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(b) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(c) The term "educational institution" means any public or private secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

(d) The term "dependent" means—

(1) a child of an eligible veteran;

(2) a dependent parent of an eligible veteran; and

(3) the wife of an eligible veteran.

**(e) For the purposes of this chapter and chapter 36 of this title, the term "training establishment" means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to chapter 4C of title 29, United States Code, or any agency of the Federal Government authorized to supervise such training.**

81 Stat. 186.

29 U.S.C. 50, 50a, 50b.

## SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

### § 1661. Eligibility; entitlement; duration

#### Entitlement

**(a) Except as provided in subsection (b), each eligible veteran shall be entitled to educational assistance under this chapter for a period of one month (or to the equivalent thereof in part-time educational assistance) for each month or fraction thereof of his service on active duty after January 31, 1955.**

#### Entitlement Limitations

**(b) Except as provided in subsection (c) and in section 1678 of this chapter, in no event shall an eligible veteran receive educational assistance under this chapter for a period which, when combined with education and training received under any or all of the laws listed below, will exceed thirty-six months—**

81 Stat. 188.

**(1) parts VII or VIII, Veterans Regulation Numbered 1(a), as amended;** 38 U.S.C., 1952 Ed., ch. 12A.

**(2) title II of the Veterans' Readjustment Assistance Act of 1952;** 38 U.S.C. 1601 note.

**(3) the War Orphans' Educational Assistance Act of 1956;** 38 U.S.C. 1701 *et seq.*

**(4) chapters 31, 33, and 35 of this title.**

**(c) Whenever the period of entitlement under this section of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester, such period shall be extended to the termination of such unexpired quarter or semester. In educational institutions not operated on the quarter or semester system, whenever the period of eligibility ends after a major portion of the course is completed such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period.**

**(d) If an eligible veteran is entitled to educational assistance under this chapter and also to vocational rehabilitation under chapter 31 of this title, he must, if he wants either, elect whether he will receive educational assistance or vocational rehabilitation. If an eligible veteran is entitled to educational assistance under this chapter and is not entitled to such vocational rehabilitation, but after beginning his program of education**

becomes entitled (as determined by the Administrator) to such vocational rehabilitation, he must, if he wants either, elect whether to continue to receive educational assistance or whether to receive such vocational rehabilitation. If he elects to receive vocational rehabilitation, the program of education under this chapter shall be utilized to the fullest extent practicable in determining the character and duration of vocational rehabilitation to be furnished him.

### § 1662. Time limitations for completing a program of education

#### Delimiting Period for Completion

(a) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date eight years after his last discharge or release from active duty after January 31, 1955.

#### Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because he had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 8-year delimiting period shall run from the date his discharge or dismissal was changed, corrected, or modified.

#### Saving Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before the date for which an educational assistance allowance is first payable under this chapter, the 8-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before the date of enactment of this sentence and who pursues a course of farm cooperative training, apprenticeship or other training on the job, or flight training within the provisions of section 1677 of this chapter, the eight-year delimiting period shall run from the date of enactment of this sentence, if it is later than the date which would otherwise be applicable. 81 Stat. 188.

### § 1663. Educational and vocational counseling

The Administrator may arrange for educational and vocational counseling for veterans eligible for educational assistance under this chapter. At such intervals as he deems necessary, he shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent he deems practicable.

## SUBCHAPTER III—ENROLLMENT

### § 1670. Selection of program

Subject to the provisions of this chapter, each eligible veteran may select a program of education to assist him in attaining an educational, professional, or vocational objective at any educational institution (approved in accordance with chapter 36 of this title) selected by him, which will accept and retain him as a student or trainee in any field or branch of knowledge which such insititution finds him qualified to undertake or pursue.

### § 1671. Applications; approval

Any eligible veteran who desires to intiate a program of education under this chapter shall submit an application to the Administrator which shall be in such form, and contain such information, as the Administrator shall prescribe. The administrator shall approve such application unless he finds that such veteran is not eligible for or entitled to the educational assistance applied for, or that his program of education fails to meet any of the requirements of this chapter, or that he is already qualified. The Administrator shall notify the eligible veteran of the approval or disapproval of his application.

### § 1672. Change of program

(a) Except as provided in subsection (b), each eligible veteran (except an eligible veteran whose program has been interrupted or discontinued due to his own misconduct, his own neglect, or his own lack of application) may make not more than one change of program of education.

(b) The Administrator may approve one additional change (or an initial change in the case of a veteran not eligible to make a change under subsection (a)) in program if he finds that—

(1) the program of education which the eligible veteran proposes to pursue is suitable to his attitudes, interests, and abilities; and

(2) in any instance where the eligible veteran has interrupted, or failed to progress in, his program due to his own misconduct, his own neglect, or his own lack of application, there exists a reasonable likelihood with respect to the program which the eligible veteran proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

(c) As used in this section the term "change of program of education" shall not be deemed to include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second.

### § 1673. Disapproval of enrollment in certain courses

(a) The Administrator shall not appove the enrollment of an eligible veteran in any type of course which the Administrator finds to be avocational or recreational in character unless the eligible veteran submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.

81 Stat. 185. (b) Except as provided in section 1677 of this title, the Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

81 Stat. 185. (c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by open circuit television (except as herein provided) or radio. The Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit television, if the major portion of the course requires conventional classroom or laboratory attendance.

(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any nonaccredited course below the college level offered by a proprietary profit or proprietary nonprofit educational institution for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or the Veterans' Administration under this chapter or chapter 31 or 35 of this title.

### § 1674. Discontinuance for unsatisfactory conduct or progress

The Administrator shall discontinue the educational assistance allowance of an eligible veteran if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution, his conduct or progress is unsatisfactory. The Administrator may renew the payment of the educational assistance allowance only if he finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible veteran has been removed; and

(2) the program which the eligible veteran now proposes to pursue (whether the same or revised) is suitable to his aptitudes, interests, and abilities.

### § 1675. Period of operation for approval

(a) The Administrator shall not approve the enrollment of an eligible veteran in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality; or

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree.

### § 1676. Education outside the United States

An eligible veteran may not pursue a program of education at an educational institution which is not located in a State, unless such program is pursued at an approved educational institution of higher learning. The Administrator in his discretion may deny or discontinue the educational assistance under this chapter of any veteran in a foreign educational institution if he finds that such enrollment is not for the best interest of the veteran or the Government.

### § 1677. Flight training

(a) The Administrator may approve the pursuit by an eligible veteran of flight training generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation, subject to the following conditions— 81 Stat. 185.

(1) the eligible veteran must possess a valid private pilot's license or must have satisfactorily completed the number of hours of flight training instruction required for a private pilot's license, and meet the medical requirements necessary for a commercial pilot's licence; and

(2) the flight school courses must meet the Federal Aviation Administration standards and be approved both by that Agency and the appropriate State approving agency.

(b) Each eligible veteran who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of subsection (a) hereof, shall be paid an educational assistance allowance to be computed at the rate of 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay. Such allowance shall be paid quarterly upon receipt of a certification from the eligible veteran and the institution as to actual flight training received by, and the cost thereof to, the veteran during such quarter. In each such case the eligible veteran's period of entitlement shall be charged with one month for each $130 which is paid to the veteran as an educational assistance allowance for such course.

### § 1678. Special training for the educationally disadvantaged

(a) In the case of any eligible veteran who—

(1) has not received a secondary school diploma (or an equivalency certificate) at the time of his discharge from active duty, or

(2) in order to pursue a program of education for which he would otherwise be eligible, needs additional secondary school training, either refresher courses or deficiency courses, to qualify for admission to an appropriate educational institution.

the Administrator may, without regard to so much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which he is "already qualified", approve the enrollment of such veteran in an appropriate course or courses; except that no enrollment in adult evening secondary school courses shall be approved in excess of half-time training as defined pursuant to section 1684 of this title.

(b) The Administrator shall pay to an eligible veteran pursuing a course or courses pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682 of this chapter.

(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this chapter.[1]

## SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS

### § 1681. Educational assistance allowance

(a) The Administrator shall pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of his subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b) The educational assistance allowance of an eligible veteran shall be paid, as provided in section 1682 of this title, only for the period of his enrollment as approved by the Administrator, but no allowance shall be paid—

(1) to any veteran enrolled in a course which leads to standard college degree for any period when such veteran is not pursuing his course in accordance with the regularly established policies and regulations of the educational institution and the requirements of this chapter, or of chapter 36;

(2) to any veteran enrolled in a course which does not lead to a standard college degree for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays established by Federal or State law during which the institution is not regularly in session; or

(3) to any veteran pursuing his program exclusively by correspondence for any period during which no lessons were serviced by the institution.

(c) The Administrator may, pursuant to such regulations as he may prescribe, determine enrollment in, pursuit of, and attendance at, any program of education or course by an eligible veteran for any period for which he receives an educational assistance allowance under this chapter for pursuing such program or course.

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[1] *Section 306(c) of Public Law 90-77 provides as follows:*

"Where the Administrator of Veterans' Affairs finds that an eligible veteran has since June 1, 1966, and prior to the enactment of this section, received educational assistance while pursuing a course or courses of education to which he would have been entitled under section 1678 of title 38, United States Code, without charge to entitlement, he may restore to the veteran any period of entitlement expended in the pursuit of such course or courses."

(d) No educational assistance allowance shall be paid to an eligible veteran enrolled in a course in an educational institution which does not lead to a standard college degree for any period until the Administrator shall have received—

(1) from the eligible veteran a certification as to his actual attendance during such period or where the program is pursued by correspondence a certificate as to the number of lessons actually completed by the veteran and serviced by the institution; and

(2) from the educational institution, a certification, or an endorsement on the veteran's certificate, that such veteran was enrolled in and pursuing a course of education during such period and, in the case of an institution furnishing education to a veteran exclusively by correspondence, a certificate, or an endorsement on the veteran's certificate, as to the number of lessons completed by the veteran and serviced by the institution.

(e) Educational assistance allowances shall be paid as soon as practicable after the Administrator is assured of the veteran's enrollment in and pursuit of the program of education for the period for which such allowances is to be paid.

### § 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), (c)(1), or (d) of this section, or section 1677 or 1683 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I;

81 Stat. 184

| Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in Column IV, plus the following for each dependent in excess of two: |
| Institutional: | | | | |
| Full time | $130 | $155 | $175 | $10 |
| Three-quarter Time. | 95 | 115 | 135 | 7 |
| Half time | 60 | 75 | 85 | 5 |
| Cooperative | 105 | 125 | 145 | 7 |

(2) A "cooperative" program means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) $130 per month for a full-time course, whichever is the lesser.

81 Stat. 184.

(c)(1) The educational assistance allowance of an eligible veteran pursuing a program of education exclusively by correspondence shall be computed on the basis of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran and serviced by the institution, as certified by the institution.

(2) In the case of any eligible veteran who is pursuing any program of education exclusively by correspondence, one-fourth of the elapsed time in following such program of education shall be charged against the veteran's period of entitlement.

81 Stat. 185.

(d) An eligible veteran enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses for a minimum of 12 clock hours per week, shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in subsection (a)(1) of this section opposite the word "Cooperative" under Column I of such table, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator.

81 Stat. 186.

**§ 1683. Apprenticeship or other on-job training**

(a) Any eligible veteran may receive the benefits of this chapter while pursuing a full-time—

(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 50a of title 29, United States Code, or

(2) program of other training on the job approved under the provisions of section 1777 of this title,

subject to the conditions and limitations of this chapter with respect to educational assistance.

(b) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

| Periods of training | No dependents | One dependent | Two or more dependents |
|---|---|---|---|
| First 6 months | $80 | $90 | $100 |
| Second 6 months | 60 | 70 | 80 |
| Third 6 months | 40 | 50 | 60 |
| Fourth and any succeeding 6-month periods | 20 | 30 | 40 |

(c) For purposes of this chapter and chapter 36 of this title, the terms "program of apprenticeship" and "program of other on-job training" shall have the same meaning as "program of education"; and the term "training assistance allowance" shall have the same meaning as "educational assistance allowance".

### § 1684. Measurement of courses

(a) For the purposes of this chapter—

(1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed;

(2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction (which may include customary intervals not to exceed ten minutes between hours of instruction) is required; and

(3) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required.

(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter.

### § 1685. Overcharges by educational institutions

(a) If the Administrator finds that an educational institution has charged or received from any eligible veteran pursuing a program of education under this chapter any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveteran students, who are enrolled in the same course to pay, he may disapprove such educational institution for the enrollment of any eligible veteran not already enrolled therein under this chapter and any eligible veteran or person not already enrolled therein under chapter 31 or 35 of this title.

(b) Any educational institution which has been disapproved under section 1734 of this title shall be deemed to be disapproved for the enrollment under this chapter of any eligible veteran not already enrolled therein.

### § 1686. Approval of courses

An eligible veteran shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course is approved in accordance with the provisions of subchapter I of chapter 36 of this title.

### § 1687. Discontinuance of allowances

The Administrator may discontinue the educational assistance allowance of any eligible veteran if he finds that the program of education or any course in which the eligible veteran is enrolled fails to meet any of the requirements of this chapter or chapter 36, or if he finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 36, or fails to meet any of their requirements.

## Chapter 35.—WAR ORPHANS' EDUCATIONAL ASSISTANCE

### SUBCHAPTER I.—DEFINITIONS

Sec.
1701. Definitions.

### SUBCHAPTER II.—ELIGIBILITY AND ENTITLEMENT

1710. Eligibility and entitlement generally.
1711. Duration of educational assistance.
1712. Periods of eligibility.
1713. Application.
1714. Processing of applications.

### SUBCHAPTER III.—PROGRAM OF EDUCATION

1720. Development of educational plan.
1721. Final approval of application.
1722. Change of program.
1723. Disapproval of enrollment in certain courses.
1724. Discontinuance for unsatisfactory progress.
1725. Period of operation for approval.

### SUBCHAPTER IV.—PAYMENTS TO ELIGIBLE PERSONS

1731. Educational assistance allowance.
1732. Computation of educational assistance allowance.
1733. Measurement of courses.
1734. Overcharges by educational institutions.
1735. Approval of courses.
1736. Discontinuance of allowances.
1737. Specialized vocational training courses.

### SUBCHAPTER V. SPECIAL RESTORATIVE TRAINING

1740. Purpose.
1741. Entitlement to special restorative training.
1742. Special training allowance.
1743. Special administrative provisions.

### SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

1761. Authority and duties of Administrator.
1762. Nonduplication of benefits.

SUBCHAPTER VII.—PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS [New]

Sec.
1765. Children of certain Philippine veterns.
1766. Definitions.

## SUBCHAPTER I—DEFINITIONS

### § 1701. Definitions

(a) For the purposes of this chapter—

(1) The term "eligible person" means a child of a person who—

(A) died of a service-connected disability, or

(B) has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence,

arising out of active military, naval, or air service after the beginning of the Spanish-American War but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining whether or not a disability arising out of such service is service-connected shall be those applicable under chapter 11 of this title.

(2) The term "child" includes individuals who are married and individuals who are above the age of twenty-one years.

(3) The term "duty with the Armed Forces" as used in section 1712 of this title means (A) active duty, (B) active duty for training for a period of six or more consecutive months, or (C) active duty for training required by section 511(d) of title 10.

(4) The term "guardian" includes a fiduciary legally appointed by a court of competent jurisdiction, or any person who is determined by the Administrator in accordance with section 3202 of this title to be otherwise legally vested with the care of the eligible person.

(5) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(6) The term "educational institution" means any public or private secondary school, vocational school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

(7) The term "special restorative training" means training furnished under subchapter V of this chapter.

(8) The term "total disability permanent in nature" means any disability rated total for the purposes of disability compensation which is based upon an impairment reasonably certain to continue throughout the life of the disabled person.

(9) The term "induction period" means (A) the period beginning September 16, 1940, and ending December 6, 1941,

and the period beginning January 1, 1947, and ending June 26, 1950, and (B) the period beginning on Feburary 1, 1955, and ending on the day before the first day thereafter on which individuals (other than individuals liable for induction by reason of a prior deferment) are no longer liable for induction for training and service into the Armed Forces under the Universal Military Training and Service Act.

(10) The term "total disability permanent in nature" means any disability rated total for the purposes of disability compensation which is based upon an impairment reasonably certain to continue throughout the life of the disabled person.

(b) If an eligible person has attained his majority and is under no known legal disability, all references in this chapter to "parent or guardian" shall refer to the eligible person himself.

(c) Any provision of this chapter which requires any action to be taken by or with respect to the parent or guardian of an eligible person who has not attained his majority, or who, having attained his majority, is under a legal disability, shall not apply when the Administrator determines that its application would not be in the best interest of the eligible person, would result in undue delay, or would not be administratively feasible. In such a case the Administrator, where necessary to protect the interest of the eligible person, may designate some other person (who may be the eligible person himself) as the person by or with respect to whom the action so required should be taken.

(d) The Congress hereby declares that the educational program established by this chapter is for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces after the beginning of the Spanish-American War and for the purpose of aiding such children in attaining the educational status which they might normally have aspired to and obtained but for the disability or death of such parent.

## SUBCHAPTER II.—ELIGIBILITY AND ENTITLEMENT

### § 1710. Eligibility and entitlement generally

Each eligible person shall, subject to the provisions of this chapter, be entitled to receive educational assistance.

### § 1711. Duration of educational assistance

(a) Each eligible person shall be entitled to educational assistance under this chapter for a period not in excess of thirty-six months (or to the equivalent thereof in part-time training).

(b) The period of entitlement of an eligible person under this chapter shall be reduced by a period equivalent to any period of education or training received by him under chapter 31 or 34 of this title or under chapter 33 of this title as in effect before February 1, 1965.

(c) If an eligible person is entitled to educational assistance under this chapter and also to vocational rehabilitation under chapter 31 of this title, he must elect whether he will receive educational assistance or vocational rehabilitation. If an eligible person is entitled to educational assistance under this chapter and is not entitled to such vocational rehabilitation, but after beginning his program of education or special restorative training becomes entitled (as determined by the Administrator) to such vocational rehabilitation, he must elect whether to continue to receive educational assistance or whether to receive such vocational rehabilitation. If he elects to receive vocational rehabilitation, the program of education or special restorative training pursued under this chapter shall be utilized to the fullest extent practicable in determining the character and duration of vocational rehabilitation to be furnished him.

(d) If any child pursuing a program of education, or of specialized restorative training, under this chapter ceases to be an "eligible person" because the parent from whom eligbility is derived is found to no longer have a "total disability permanent in nature", as defined in section 1701(a)(10) of this title, then such child (if he has sufficient remaining entitlement may, nevertheless, be afforded educational assistance under this chapter until the end of a quarter or semester for which enrolled if the educational institution in which he is enrolled is operated on a quarter or semester system, or if the educational institution is not so operated until the end of the course, or until nine weeks have expired, whichever first occurs.

## § 1712. Periods of eligibility

(a) The educational assistance to which an eligible person is entitled under section 1711 of this title or subchapter V of this chapter may be afforded him during the period beginning on his eighteenth birthday, or on the successful completion of his secondary schooling, whichever first occurs, and ending on his twenty-sixth birthday,[2] except that—

(1) if he is above the age of compulsory school attendance under applicable State law, and the Administrator determines that his best interests will be served thereby, such period may begin before his eighteenth birthday; 81 Stat. 189.

(2) if he has a mental or physical handicap, and the Administrator determines that his best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under section 1737 of this title, such period may begin before his eighteenth birthday, but not before his fourteenth birthday;

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[2] Section 307 of P.L. 90–77, which amended section 1712 by changing "twenty-third birthday" to "twenty-sixth birthday," also provided as follows:

"In the case of any eligible person (within the meaning of section 1701(a)(1) or 1765(a) of title 38, United States Code) who is made eligible for educational assistance under the provisions of chapter 35 of title 38, United States Code, solelyjby virtue of the amendments made by subsection (a) of this section, and who on the effective date of this Act is below the age of twenty-six years, the period referred to in section 1712 of such title shall not end with respect to such person until the expiration of the five-year period which begins on the effective date of this Act, excluding from such five-year period any geriod of time which may elapse between the date on which application for benefits of such chapter 35 is filed on behalf of such person and the date of fina approval of such application by the Administrator of Veterans' Affairs; but in no event shall educational assistance under such chapter 35 be afforded to any eligible person beyond his thirty-first birthday by reason of this section."

(3) if the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person's eighteenth birthday but before his twenty-third birthday, then (unless paragraph (4) applies) such period shall end five years after, whichever date first occurs (A) the date on which the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;

(4) if he serves on duty with the Armed Forces as an eligible person after his eighteenth birthday but before his twenty-third birthday, then such period shall end five years after his first discharge or release from such duty with the Armed Forces (excluding from such five years all periods during which the eligible person served on active duty before August 1, 1962, pursuant to (A) a call or order thereto issued to him as a Reserve after July 30, 1961, or (B) an extension of enlistment, appointment, or period of duty with the Armed Forces pursuant to section 2 of Public Law 87–117); however, in no event shall such period by extended beyond his thirty-first birthday by reason of this paragraph; and

(5) (A) if he is enrolled in an educational institution regularly operated on a quarter or semester system and such period ends during the last half of a quarter or semester, such period shall be extended to the end of the quarter or semester; or

(B) if he is enrolled in an educational institution operated other than on a quarter or semester system and such period ends during the last half of the course, such period shall be extended to the end of the course, or until nine weeks have expired, whichever first occurs.

(b) No eligible person may be afforded educational assistance under this chapter unless he was discharged or released after each period he was on duty with the Armed Forces under conditions other than dishonorable, or while he is on duty with the Armed Forces.

(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to him under such subsection if (1) he suspends pursuit of his program of education after having enrolled in such program within the time period applicable to him under such subsection, (2) he is unable to complete such program after the period of suspension and before attaining the age limitation applicable to him under such subsection, and (3) the Administrator finds that the suspension was due to conditions beyond the control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to him under subsection (a) of this section plus a period of time equal to the period he was required to suspend the pursuit of his program, or beyond his thirty-first birthday, whichever is earlier.

(d) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to him under such subsection by a period of time equivalent to any period of time which elapses between the eighteenth birthday of such eligible person or the date on which an application for benefits of this chapter is filed on behalf of such eligible person, whichever is later, and the date of final approval of such application by the Administrator; but in no event shall educational assistance under this chapter be afforded an eligible person beyond his thirty-first birthday by reason of this subsection.

### § 1713. Application

The parent or guardian of a person for whom educational assistance is sought under this chapter shall submit an application to the Administrator which shall be in such form and contain such information as the Administrator shall prescribe. If the Administrator finds that the person on whose behalf the application is submitted is an eligible person, he shall approve the application provisionally. The Administrator shall notify the parent or guardian of his provisional approval, or of his disapproval of the application.

### § 1714. Processing of applications

(a) Further processing of an application for educational assistance and the award of such assistance shall be pursuant to the requirements of subchapters III and IV of this chapter unless the parent or guardian requests special restorative training for the eligible person, in which case the application will be processed under subchapter V of this chapter.

(b) If the request for special restorative training is approved, educational assistance will be afforded pursuant to the terms of subchapter V of this chapter. If the request for special restorative training is disapproved, or if approved the restorative training is completed or discontinued, any educational assistance subsequently afforded will be in accordance with subchapters III and IV of this chapter.

## SUBCHAPTER III.—PROGRAM OF EDUCATION

### § 1720. Development of education

Upon provisional approval of an application for educational assistance, the Administrator shall arrange for, and the eligible person shall take advantage of, educational or vocational counseling to assist the parent of guardian and the eligible person in selecting his educational, vocational, or professional objective and in developing his program of education. During, of after, such counseling, the parent or guardian shall prepare for the eligible person an educational plan which shall set forth the selected objective, the proposed program of education, a list of the educational institutions at which such program would be pursued, an estimate of the sum which would be required for tuition and fees in completion of such program, and such other information as the Administrator shall require. This educational plan shall be signed by the parent or guardian and shall become an integral part of the application for educational assistance under this chapter.

### § 1721. Final approval of application

The Administrator shall finally approve an application if he finds (1) that section 1720 of this title has been complied with, (2) that the proposed program of education constitutes a "program of education" as that term is defined in this chapter, (3) that the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the courses of the program of education are offered, and (4) that it does not appear that the pursuit of such program would violate any provision of this chapter.

### § 1722. Change of program

An eligible person, with the concurrence of his parent or guardian, may request changes in his program. The Administrator shall approve an initial change of program, and may approve not more than one additional change, if he finds that—

(1) the program of education which the eligible person proposes to pursue is suitable to his aptitudes, interests, and abilities; and

(2) in any instance where the eligible person has interrupted, or failed to progress in, his program due to his own misconduct, his own neglect, or his own lack of application, there exists a reasonable likelihood with respect to the program which the eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

### § 1723. Disapproval of enrollment in certain courses

(a) (1) The Administrator shall not approve the enrollment of an eligible person in any bartending course, dancing course, or personality development course.

(2) The Administrator shall not approve the enrollment of an eligible person—

(A) in any photography course or entertainment course; or

(B) in any music course—instrumental or vocal—public speaking course, or course in sports or athletics such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses, except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective; or

(C) in any other type of course which the Administrator finds to be avocational or recreational in character;

unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.

(b) The Administrator shall not approve the enrollment of an eligible person in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible person is seeking.

(c) The Administrator shall not approve the enrollment of an eligible person in any course of apprentice or other training on the job, any course of institutional on-farm training, any course to be pursued by correspondence, open circuit television (except as herein provided), or radio, or any course to be pursued at an educational institution not located in a State or in the Republic of the Philippines. The Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit televised instruction, if the major portion of the course requires conventional classroom or laboratory attendance. Notwithstanding the first sentence of this subsection, enrollment in a foreign educational institution may be approved by the Administrator in the case of any eligible person, if (1) the subjects to be taken by such person at such foreign educational institution are an integral part of and are fully creditable toward the satisfactory completion of an approved course in which such person is enrolled in an institution of higher learning (hereafter in this sentence referred to as his "principal institution") which is located in a State or in the Republic of the Philippines, (2) the tuition and fees for attendance at such foreign educational institution are paid for by the principal institution, and (3) the principal institution agrees to assume the responsibility for submitting to the Veterans' Administration required enrollment certificates and monthly certifications of training as to attendance, conduct, and progress.

(d) The Administrator shall not approve the enrollment of an eligible person in any course which is to be pursued as a part of his regular secondary school education, but this subsection shall not prevent the enrollment of an eligible person in a course to be pursued below the college level if the Administrator finds that such person has ended his secondary school education (by completion or otherwise) and that such course is a specialized vocational course pursued for the purpose of qualifying in a bona fide vocational objective.

### § 1724. Discontinuance for unsatisfactory progress

The Administrator shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution he is attending, his conduct or progress is unsatisfactory. The

Administrator may renew the payment of the educational assistance allowance only if he finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and

(2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to his aptitudes, interests, and abilities.

### § 1725. Period of operation for approval

(a) The Administrator shall not approve the enrollment of an eligible person in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality; or

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree.

## SUBCHAPTER IV.—PAYMENTS TO ELIGIBLE PERSONS

### § 1731. Educational assistance allowance

(a) The Administrator shall pay to the parent or guardian of each eligible person who is pursuing a program of education under this chapter, and who applies therefor on behalf of such eligible person, an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b) The educational assistance allowance on behalf of an eligible person shall be paid, as provided in section 1732 of this title, only for the period of his enrollment as approved by the Administrator, but no allowance shall be paid—

(1) on behalf of any person enrolled in a course which leads to a standard college degree for any period when such person is not pursuing his course in accordance with the regularly established policies and regulations of the educational institution and the requirements of this chapter; or

(2) on behalf of any person enrolled in a course which does not lead to a standard college degree for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays established by Federal or State law (or in the case of the Repub-

lic of the Philippines, Philippine law) during which the institution is not regularly in session.

(c) The Administrator may, pursuant to such regulations as he may prescribe, determine enrollment in, pursuant of, and attendance at, any program of education or course by an eligible person for any period for which an educational assistance allowance is paid on behalf of such eligible person under this chapter for pursuing such program or course.

(d) No educational assistance allowance shall be paid on behalf of an eligible person enrolled in a course in an educational institution which does not lead to a standard college degree for any period until the Administrator shall have received—

(1) from the eligible person a certification as to his actual attendance during such period; and

(2) from the educational institution, a certification, or an endorsement on the eligible person's certificate, that he was enrolled in and pursuing a course of education during such period.

(e) Educational assistance allowances shall be paid as soon as practicable after the Administrator is assured of the eligible person's enrollment in and pursuit of the program of education for the period for which such allowance is to be paid.

## § 1732. Computation of educational assistance allowance

(a) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (1) $130 per month if pursued on a full-time basis, (2) $95 per month if pursued on a three-quarters time basis, and (3) $60 per month if pursued on a half-time basis.

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of triainng in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of $105 per month.

(c) No educational assistance allowance shall be paid on behalf of an eligible person for any period during which he is enrolled in and pursuing an institutional course on a less than half-time basis, or any course described in subsection (b), on a less than full-time basis.

## § 1733. Measurement of courses

(a) For the purposes of this chapter, (1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed, (2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction is required, and (3) an institutional undergraduate course offered by a college or university on a quarter or semester hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required.

(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the cases of all other types of courses pursued under this chapter.

### § 1734. Overcharges by educational institutions

(a) If the Administrator finds that an educational isntitution has charged or received from any eligible person pursuing a course of education under this chapter any amount in excess of the charges for tuition and fees which such institution requires similarly circumstanced students, not receiving educational assistance under this chapter, who are enrolled in the same course to pay, he may disapprove such educational institution for the enrollment of any eligible person not already enrolled therein under this chapter and any eligible veteran not already enrolled therein under chapter 31 or 34 of this title.

(b) Any educational institution which has been disapproved under section 1684 of this title shall be deemed to be disapproved for the enrollment under this chapter of any eligible person not already enrolled therein.

### § 1735. Approval of courses

An eligible person shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course (1) is approved in accordance with the provisions of subchapter I of chapter 36 of this title, or (2) is approved for the enrollment of the particular individual under the provisions of section 1737 of this title.

### § 1736. Discontinuance of allowances

The Administrator may discontinue the educational assistance allowance of any eligible person if he finds that the course of education in which the eligible person is enrolled fails to meet any of the requirements of this chapter, or of chapter 36 of this title, or if he finds that the educational institution offering such course has violated any provision of this chapter, or of chapter 36 of this title, or fails to meet any of its requirements.

### § 1737. Specialized vocational training courses

The Administrator may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this subchapter if he finds that such course, either alone or when combined with other courses, constitutes a program of education which is suitable for that person and is required because of a mental or physical handicap.

## SUBCHAPTER V.—SPECIAL RESTORATIVE TRAINING

### § 1740. Purpose

The purpose of special restorative training is to overcome, or lessen, the effects of a manifest physical or mental disability which would handicap an eligible person in the pursuit of a program of education.

### § 1741. Entitlement to special restorative training

(a) The Administrator at the request of the parent or guardian of an eligible person is authorized—

(1) to determine whether such person is in need of special restorative training; and

(2) where need is found to exist, to prescribe a course which is suitable to accomplish the purposes of this chapter.

Such a course, at the discretion of the Administrator, may contain elements that would contribute toward an ultimate objective of a program of education.

(b) The total period of educational assistance under this subchapter and other subchapters of this chapter may not exceed the amount of entitlement as established in section 1711 of this title, except that the Administrator may extend such period in the case of any person if he finds that additional assistance is necessary to accomplish the purpose of special restorative training as stated in subsection (a) of this section.

### § 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to recieve on his behalf a special training allowance computed at the basic rate of $130 per month. If the charges for tuition and fees applicable to any such course are more than $41 per calendar month the basic monthly allowance may be increased by the amount that such charges exceed $41 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one for each $4.25 that the special training allowance paid exceeds the basic monthly allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

### § 1743. Special administrative provisions

(a) In carrying out his responsibilities under this chapter the Administrator may by agreement arrange with public or private educational institutions or others to provide training arrangements as may be suitable and necessary to accomplish the purposes of this subchapter. In any instance where the Administrator finds that a customary tuition charge is not applicable, he may agree on the fair and reasonable amounts which may be charged the parent or guardian for the training provided to an eligible person.

(b) The Administrator shall make such rules and regulations as he may deem necessary in order to promote good conduct on the part of the persons who are following courses of special restorative training and otherwise to carry out the purposes of this chapter.

## SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

### § 1761. Authority and duties of Administrator

(a) The Administrator may provide the educational and vocational counseling required under section 1720 of this title, and may provide or require additional counseling if he deems it to be necessary to accomplish the purposes of this chapter.

(b) Where any provision of this chapter authorizes or requires any function, power, or duty to be exercised by a State, or by any officer or agency thereof, such function, power, or duty shall, with respect to the Republic of the Philippines, be exercised by the Administrator.

### § 1762. Nonduplication of benefits

The commencement of a program of education or special restorative training under this chapter shall be a bar (1) to subsequent payments of compensation, dependency and indemnity compensation, or pension based on the death of a parent to an eligible person over the age of eighteen by reason of pursuing a course in an educational institution, or (2) to increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person whether eligibility is based upon the death or upon the total permanent disability of the parent.

## SUBCHAPTER VII.—PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS

### § 1765. Children of certain Philippine veterans

#### Basic Eligibility

(a) The term "eligible person" as used in section 1701(a)(1) of this title includes the children of those Commonwealth Army veterans and "New" Philippine Scouts who meet the requirements of service-connected disability or death, based on service as defined in section 1766.

#### Administrative Provisions

(b) The provisions of this chapter and chapter 36 shall apply to the educational assistance for children of Commonwealth Army veterans and "New" Philippine Scouts, except that—by

(1) educational assistance allowances authorized section 1732 of this title and the special training allowance authorized by section 1742 of this title shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar, and

(2) any reference to a State approving agency shall be deemed to refer to the Administrator.

### Delimiting Dates

(c) In the case of any individual who is an "eligible person" solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on the date of enactment of this section, the period referred to in section 1712 of this title shall not end until the expiration of the five-year period which begins on the date of enactment of such section.

### § 1766. Definitions

(a) The term "Commonwealth Army veterans" means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander-in-Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

(b) The term " 'New' Philippine Scouts" means Philippine Scouts who served under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

# CHAPTER 36.—ADMINISTRATION OF EDUCATIONAL BENEFITS

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## SUBCHAPTER I—STATE APPROVING AGENCIES

### § 1770. Scope of approval

(a) A course approved under and for the purposes of this chapter shall be deemed approved for the purposes of chapters 34 and 35 of this title.

(b) Any course approved under chapter 33 of this title, prior to February 1, 1965, under subchapter VII of chapter 35 of this title, prior to the date of enactment of this chapter, and not disapproved under section 1686, section 1656 (as in effect prior to February 1, 1965), or section 1778 of this title, shall be deemed approved for the purposes of this chapter.

### § 1771. Designation

(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the "State approving agency" for his State for the purposes of chapters 34 and 35 of this title.

(b)(1) If any State fails or declines to create or designate a State approving agency, the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Administrator.

(2) In the case of courses subject to approval by the Administrator under section 1772 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Administrator.

### § 1772. Approval of courses

(a) An eligible person or veteran shall receive the benefits of chapters 34 and 35 while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in chapters 34 and 35 by the State approving agency for the State where such educational institution is located, or by the Administrator, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 1737 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of chapters 34 and 35 and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Administrator with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Administrator as it and the Administrator may determine to be necessary to carry out the purposes of chapters 34 and 35. Each State approving agency shall notify the Administrator of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b) The Administrator shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Administrator may approve any course in any other educational institution in accordance with the provisions of chapters 34 and 35.

### § 1773. Cooperation

(a) The Administrator and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Administrator and each State approving agency under the educational programs established under chapters 34 and 35. To assure that such programs are effectively and efficiently administered, the cooperation of the Administrator and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under chapters 34 and 35.

(b) The Administrator will furnish the State approving agencies with copies of such Veterans' Administration informational material as may aid them in carrying out chapters 34 and 35.

### § 1774. Reimbursement of expenses

The Administrator is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies in (1) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to eligible persons or veterans under chapters 34 and 35, and in the supervision of such educational institutions, and (2) furnishing, at the request of the Administrator, any other services in connection with chapters 34 and 35. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of chapters 34 and 35.

### § 1775. Approval of accredited courses

(a) A State approving agency may approve the courses offered by an educational institution when—

(1) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(2) such courses are conducted under sections 11–28 of title 20; or

(3) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

For the purposes of this chapter the Commissioner of Education shall publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by an educational institution and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin.

(b) As a condition to approval under this section, the State approving agency must find that adequate records are kept by the educational institution to show the progress of each eligible person or veteran. The State approving agency must also find that the educational institution maintains a written record of the previous education and training of the eligible person or veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person or veteran and the Administrator so notified.

### § 1776. Approval of nonaccredited courses

(a) No course of education which has not been approved by a State approving agency pursuant to section 1775 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished by the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its nonaccredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person and the Administrator so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall

not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(14) Such additional criteria as may be deemed necessary by the State approving agency.

### § 1777. Approval of training on the job

(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only when it finds that the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

(b) The training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

(1) the wages to be paid the eligible veteran (A) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 per centum of the wages paid for the job for which he is to be trained, and (B) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such eligible veteran is being trained; and

(2) there is reasonable certainty that the job for which the eligible veteran is to be trained will be available to him at the end of the training period.

(c) As a condition for approving a program of training on the job (other than a program of apprenticeship) the State approving agency must find upon investigation that the following criteria are met:

(1) The training content of the course is adequate to qualify the eligible veteran for appointment to the job for which he is to be trained.

(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide an eligible veteran with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran will need to learn in order to become competent on the job for which he is being trained.

(4) Provision is made for related instruction for the individual eligible veteran who may need it.

(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(6) Adequate records are kept to show the progress made by each eligible veteran toward his job objective.

(7) No course of training will be considered bona fide if given to an eligible veteran who is already qualified by training and experience for the job.

(8) A signed copy of the training agreement for each eligible veteran, including the training program and wage scale as approved by the State approving agency, is provided to the veteran and to the Administrator and the State approving agency by the employer.

(9) That the course meets such other criteria as may be established by the State approving agency.

### § 1778. Notice of approval of courses

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the Administrator. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

(1) date of letter and effective date of approval of courses;

(2) proper address and name of each educational institution;

(3) authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;

(4) name of each course approved;

(5) where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio;

(6) signature of responsible official of State approving agency; and

(7) such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

### § 1779. Disapproval of courses

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which has its courses disapproved by a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(b) Each State approving agency shall notify the Administrator of each course which it has disapproved under this section. The Administrator shall notify the State approving agency of his disapproval of any educational institution under chapter 31 of this title.

## SUBCHAPTER II—MISCELLANEOUS PROVISIONS

### § 1781. Nonduplication of benefits

No educational assistance allowance or special training allowance shall be paid on behalf of any eligible person or veteran under chapter 34 or 35 of this title for any period during which such person or veteran is enrolled in and pursuing a program of education or course paid for by the United States under any provision of law other than such chapters, where the payment of an allowance would constitute a duplication of benefits paid from the Federal Treasury to the eligible person or veteran or to his parent or guardian in his behalf.

### § 1782. Control by agencies of the United States

No department, agency, or officer of the United States, in carrying out this chapter, shall excercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution. Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of education under chapter 34 or 35 of this title in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

### § 1783. Conflicting interests

(a) Every officer or employee of the Veterans' Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under chapter 34 or 35 shall be immediately dismissed from his office or employment.

(b) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while he was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under chapter 34 or 35 of this title, he shall discontinue making payments under section 1774 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person and such payments shall not be resumed while such person is an officer or employee of the State approving agency, or State department of veterans' affairs or State department of education.

(c) A State approving agency shall not approve any course offered by an educational institution operated for profit, and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Veterans' Administration or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

(d) The Administrator may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Veterans' Administration or of a State approving agency, if he finds that no detriment will result to the United States or to eligible persons or veterans by reasons of such interest or connection of such officer or employee.

### § 1784. Reports by institutions, reporting fee

(a) Educational institutions shall, without delay, report to the Administrator in the form prescribed by him, the enrollment, interruption, and termination of the education of each eligible person or veteran enrolled therein under chapter 34 or 35.

(b) The Administrator may pay to any educational institution furnishing education under either chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution is required to report to him by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $3 by the number of eligible veterans enrolled under chapter 34 of this title, plus the number of eligible persons enrolled under chapter 35 of this title, on October 31 of that year; except that the Administrator may, where it is established by the educational institution that eligible veteran plus eligible person enrollment on such date varies more than 15 per centum from the peak eligible veteran plus eligible person enrollment in such institution during such calendar year, establish such other date as representative of the peak enrollment as may be justified for that institution. The reporting fee shall be paid to the educational institution as soon as feasible after the end of the calendar year for which it is applicable. 81 Stat. 189.

### § 1785. Overpayments to eligible persons or veterans

Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran as the result of (1) the willful or negligent failure of an educational institution to report, as required by chapter 34 or 35 of this title and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person or veteran, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of such institution, and may be recovered in the same manner as any other debt due the United States. Any amount so collected shall be reimbursed if the overpayment is recovered from the eligible person or veteran. This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

### § 1786. Examination of records

The records and accounts of educational institutions pertaining to eligible persons or veterans who received education under chapter 34 or 35 of this title shall be available for examination by duly authorized representatives of the Government.

### § 1787. False or misleading statements

Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a person or veteran, with the complicity of an educational institution, has submitted such a claim, he shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

### § 1788. Advisory committee

There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management, and of representatives of the various types of institutions and establishments furnishing vocational rehabilitation under chapter 31 of this title or education to eligible persons or veterans enrolled under chapter 34 or 35 of this title. The Commissioner of Education and the Administrator, Manpower Administration, Department of Labor, shall be ex officio members of the advisory committee. The Administrator shall advise and consult with the committee from time to time with respect to the administration of this chapter and chapters 31, 34, and 35 of this title, and the committee may make such reports and recommendations as it deems desirable to the Administrator and to the Congress.

### § 1789. Institutions listed by Attorney General

The Administrator shall not approve the enrollment of, or payment of an additional assistance allowance to, any eligible veteran or eligible person under chapter 34 or 35 of this title in any course in an educational institution while it is listed by the Attorney General under section 12 of Executive Order 10450.

18 F.R. 2489.
5 U.S.C. 631 note.

### § 1790. Use of other Federal agencies

In carrying out his functions under this chapter or chapter 34 or 35 of this title, the Administrator may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

#### Legislative History

VETERANS' READJUSTMENT BENEFITS ACT OF 1966, AS AMENDED THROUGH THE 90TH CONGRESS, 1ST SESSION

*89th 89-358 Congress*—P.L.
S. 9:
H. Rept. No. 1258 accompanying H.R. 12410 (Commission on Veterans' Affairs).
S. Rept. No. 269 (Commission on Labor and Public Welfare).
Congressional Record:
Vol. 111 (1965):
July 16: Considered in Senate.
July 19: Considered and passed Senate.
Vol. 112 (1966):
Feb. 7: Considered and passed House, amended, in lieu of H.R. 12410.
Feb. 10: Senate concurred in House amendment with amendments.
Feb. 10: House concurred in Senate amendments.

*90th Congress*—P.L. 90–77
S. 16:
H. Repts. No. 130 accompanying H.R. 2068 (Commission on Veterans' Affairs) and No. 554 (Commission of conference).
S. Repts. No. 7 (Commission on Finance) and No. 290 accompanying S. 9 (Commission on Labor and Public Welfare).
Congressional Record, vol. 113 (1967):
Feb. 7: Considered and passed Senate.
Mar. 20: Considered and passed House, amended, in lieu of H.R. 2068.
June 1: Senate concurred in House amendment with an amendment.
Aug. 17: House agreed to conference report.
Aug. 23: Senate agreed to conference report.

# 16. LIBRARY SERVICES AND CONSTRUCTION ACT, AS AMENDED THROUGH THE 90TH CONGRESS, FIRST SESSION

**Enacted on June 19, 1956, as the "Library Services Act", by P.L. 597, 84th Congress (70 Stat. 293), 20 U.S.C. 351. Amended August 1, 1956, by P.L. 896, 84th Congress (70 Stat. 911), on August 31, 1960, by P.L. 86–679 (74 Stat. 571), and on September 25, 1962, by P.L. 87–688 (76 Stat. 587). Amended and renamed the "Library Services and Construction Act", on February 11, 1964, by P.L. 88–269 (78 Stat. 11). Amended on July 19, 1966, by P.L. 89–511 (80 Stat. 313); and on November 24, 1967 by P.L. 90–154 (81 Stat. 509).**

AN ACT To promote the further developments of public library services

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Library Services and Construction Act".

### DECLARATIONS OF POLICY

SEC. 2. (a) It is the purpose of this Act to promote the further extension by the several States of public library services to areas without such services or with inadequate services, to promote interlibrary cooperation, and to assist the States in providing certain specialized State library services. 20 U.S.C. 351.

(b) The provisions of this Act shall not be so construed as to interfere with State and local initiative and responsibility in the conduct of public library services. The administration of public libraries, the selection of personnel and library books and materials, and, insofar as consistent with the purposes of this Act, the determination of the best uses of the funds provided under this Act shall be reserved to the States and their local subdivisions.

## TITLE I—PUBLIC LIBRARY SERVICES

### AUTHORIZATIONS OF APPROPRIATIONS

SEC. 101. There are authorized to be appropriated for the fiscal year ending June 30, 1967, $35,000,000; for the fiscal year ending June 30, 1968, $45,000,000; for the fiscal year ending June 30, 1969, $55,000,000; for the fiscal year ending June 30, 1970, $65,000,000; and for the fiscal year ending June 30, 1971, $75,000,000, which shall be used for making payments to States which have submitted and had approved by the Commissioner of Education (hereinafter referred to as the Commissioner) State plans for the further extension of public library services to areas without such services, or with inadequate services. 20 U.S.C. 352.

### ALLOTMENTS TO STATES

20 U.S.C. 353.

SEC. 102. From the sums appropriated pursuant to section 101 for each fiscal year, the Commissioner shall allot $25,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands and $100,000 to each of the other States, and shall allot to each State such part of the remainder of such sums as the population of the State bears to the population of the United States, according to the most recent decennial census.

### STATE PLANS

20 U.S.C. 354.

SEC. 103. (a) To be approved under this section, a State plan for the further extension of public library services must—

(1) provide for the administration, or supervision of the administration, of the plan by the State library administrative agency, and provide that such agency will have adequate authority under State law to administer the plan in accordance with its provisions and the provisions of this Act;

(2) provide for the receipt by the State treasurer (or, if there be no State treasurer, the officer exercising similar functions for the State) of all funds paid to the State pursuant to this Act and for the proper safeguarding of such funds by such officer, provide that such funds shall be expended solely for the purposes for which paid, and provide for the repayment by the State to the United States of any such funds lost or diverted from the purposes for which paid;

(3) provide policies and methods of administration to be followed in using any funds made available for expenditure under the State plan, which policies and methods the State library administrative agency certifies will in its judgment assure use of such funds to maximum advantage in the further extension of public library services to areas without such services or with inadequate services;

(4) provide that the State library administrative agency will make such reports as to categories of expenditures made under this Act, as the Commissioner may from time to time reasonably require; and

(5) provide that any library services furnished under the plan shall be make available free of charge under regulations prescribed by the State library administrative agency.

(b) The Commissioner shall approve any plan which fulfills the conditions specified in subsection (a) of this section.

(c) The determination of whether library services are inadequate in any area within any State shall be made by the State library administrative agency of such State.

20 U.S.C. 355.

SEC. 104. (a) From the allotments available therefor under section 102, the Secretary of the Treasury shall from time to time pay to each State which has a plan approved under section 103 an amount computed as provided in subsection (b) of this section, equal to the Federal share of the total sums expended by the State and its political subdivisions under such plan during the period for which such payment was made, except that no payments shall be made to any State (other than the Trust Territory of the Pacific Islands) from its allotment for any fiscal year unless and until the Commissioner finds that (1) there will be available for expenditure under the plan from State or local sources during the fiscal year for which the allotment is made (A) sums sufficient to enable the State to receive under this section payments in an amount not less than $25,000 in the case of the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $100,000 in the case of any other State, and (B) not less than the total amount actually expended, in the areas covered by the plan for such year, for public library services from such sources in the second preceding fiscal year, and (2) there will be available for expenditure for public library services from State sources during the fiscal year for which the allotment is made not less than the total amount actually expended for public library services from such sources in the second preceding fiscal year.

(b) The Commissioner shall from time to time estimate the amount to which a State is entitled under subsection (a), and such amount shall be paid to the State, in advance or by way of reimbursement, at such time or times and in such installments as the Commissioner may determine, after necessary adjustment on account of any previously made overpayment or underpayment.

(c) For the purposes of this section the "Federal share" for any State shall be 100 per centum less the State percentage and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of all the States (excluding Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands), except that (1) the Federal share shall be in no case more than 66 per centum or less than 33 per centum, and (2) the Federal share for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66 per centum, and the Federal share for the Trust Territory of the Pacific Islands shall be 100 per centum.

(d) The "Federal share" for each State shall be promulgated by the Commissioner between July 1 and August 31 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of all of the States (excluding Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands), for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Commissioner shall promulgate such percentages as soon as possible after the enactment of this Act.

(e) No portion of any money paid to a State under this title shall be applied, directly or indirectly, to the purchase or erection of any building or buildings, or for the purchase of any land.

## TITLE II—PUBLIC LIBRARY CONSTRUCTION

### AUTHORIZATION OF APPROPRIATIONS

20 U.S.C. 355a.

SEC. 201. There are authorized to be appropriated for the fiscal year ending June 30, 1967, $40,000,000; for the fiscal year ending June 30, 1968, $50,000,000; for the fiscal year ending June 30, 1969, $60,000,000; for the fiscal year ending June 30, 1970, $70,000,000; and for the fiscal year ending June 30, 1971, $80,000,000, which shall be used for making payments to States, which have submitted and had approved by the Commissioner, State plans for the construction of public libraries.

### ALLOTMENTS

20 U.S.C. 355b.

SEC. 202. From the sums appropriated pursuant to section 201 for each fiscal year, the Commissioner shall allot $20,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, and $80,000 to each of the other States, and shall allot to each State such part of the remainder of such sums as the population of the State bears to the population of the United States, according to the most recent decennial census. A State's allotment under this subsection for any fiscal year shall be available for payments with respect to the administration, during such year and the next fiscal year, of its State plan approved under section 203, and for payments with respect to construction projects approved under such State plan during such year or the next fiscal year.

### STATE PLANS FOR CONSTRUCTION

20 U.S.C. 355c.

SEC. 203. (a) To be approved for purposes of this title a State plan for construction of public libraries must—

(1) meet the requirements of paragraphs (1), (2), (4), and (5) of section 103(a);

(2) set forth criteria and procedures for approval of projects for construction of public library facilities which are designed to insure that facilities will be constructed only to serve areas, as determined by the State library administrative agency, which are without library facilities necessary to develop library services;

(3) provide assurance that every local or other public agency whose application for funds under the plan with respect to a project for construction of public library facilities is denied will be given an opportunity for a fair hearing before the State library administrative agency; and

(4) provide assurance that all laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended

(40 U.S.C. 276a–276c–5), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (Public Law 87–581); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) The Commissioner shall approve any plan which fulfills the conditions specified in subsection (a) of this section.

### PAYMENTS TO STATES

SEC. 204. (a) From its allotment available therefor under section 202 each State shall be entitled to receive (1) an amount equal to the Federal share (as determined under section 104) of projects approved under its State plan (as approved by the Commissioner pursuant to section 203) during the period for which such allotment is available, and (2) an amount equal to the Federal share of the total of the sums expended by the State and its political subdivisions for the administration of such State during the period for which such allotment is available. 20 U.S.C. 355d.

(b) The Commissioner shall from time to time estimate the amount to which a State is entitled under subsection (a), and such amount shall be paid to the State, in advance or by way of reimbursement, at such time or times and in such installments as the Commissioner may determine, after necessary adjustment on account of any previously made overpayment or underpayment.

## TITLE III—INTERLIBRARY COOPERATION

### AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There are authorized to be appropriated for the fiscal year ending June 30, 1967, the sum of $5,000,000; for the fiscal year ending June 30, 1968, $7,500,000; for the fiscal year ending June 30, 1969, $10,000,000; for the fiscal year ending June 30, 1970, $12,500,000; and for the fiscal year ending June 30, 1971, $15,000,000; which shall be used for making payments to States which have submitted and had approved by the Commissioner State plans for establishing and maintaining local, regional, State or interstate cooperative networks of libraries. 20 U.S.C. 355e.

### ALLOTMENTS

SEC. 302. From the sums appropriated pursuant to section 301 for each fiscal year the Commissioner shall allot $10,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, and $40,000 to each of the other States, and shall allot to each State such part of the remainder of such sums as the population of the State bears to the population of the United States according to the most recent decennial census. 20 U.S.C. 355e-1.

### PAYMENTS TO STATES

20 U.S.C. 355e-2.

SEC. 303. From the allotments available therefore under section 302, the Secretary of the Treasury shall from time to time pay to each State which has a plan approved under section 304 an amount equal to the Federal share which for the fiscal year ending June 30, 1968, shall be 100 per centum of the total sums expended under such plan (including costs of administering such plan), and for any fiscal year thereafter shall be 50 per centum of such sums, except that the Federal share for the Trust Territory of the Pacific Islands shall be 100 per centum.[1]

81 Stat. 509.

81 Stat. 509.

### STATE PLANS FOR INTERLIBRARY COOPERATION

20 U.S.C. 355e-3.

SEC. 304. (a) To be approved for purposes of this title a State plan must—

(1) meet the requirements of paragraphs (1), (2), (4), and (5) of section 103(a);

(2) provide policies and objectives for the systematic and effective coordination of the resources of school, public, academic, and special libraries and special information centers for improved services of a supplementary nature to the special clientele served by each type of library or center;

(3) provide appropriate allocation by participating agencies of the total costs of the system;

(4) provide assurance that every local or other public agency in the State is accorded an opportunity to participate in the system;

(5) provide criteria which the State agency shall use in evaluating applications for funds under this title and in assigning priority to project proposals; and

(6) establish a statewide council which is broadly representative of professional library interests and of library users which shall act in an advisory capacity to the State agency.

(b) The Commissioner shall approve any State plan which meets the conditions specified in subsection (a) of this section.

## TITLE IV—SPECIALIZED STATE LIBRARY SERVICES

### PART A—STATE INSTITUTIONAL LIBRARY SERVICES

### AUTHORIZATION OF APPROPRIATIONS

20 U.S.C. 355f.

SEC. 401. There are authorized to be appropriated for the fiscal year ending June 30, 1967, the sum of $5,000,000; for the fiscal year ending June 30, 1968, $7,500,000; for the fiscal year ending June 30, 1969, $10,000,000; for the fiscal year ending June 30, 1970, $12,500,000; and for the fiscal year ending June 30, 1971, $15,000,000; which shall be used for making payments to States which have submitted and had approved by the Commissioner State plans for establishing and improving State institutional library services. For the purposes of this part the term "State institutional library services" means the providing of books, and other library material, and of library services to (A) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, and (B) students in residential schools for the handicapped (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired persons who by reason thereof require special education) operated or substantially supported by the State.

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[1] Section 7 of Public Law 90-154 provides that the amendments made in section 303 by Public Law 90-154 shall be effective with respect to fiscal years beginning after June 30, 1967.

### ALLOTMENTS

SEC. 402. From the sums appropriated pursuant to section 401 for each fiscal year the Commissioner shall allot $10,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, and $40,000 to each of the other States, and shall allot to each State such part of the remainder of such sums as the population of the State bears to the population of the United States according to the most recent decennial census. 20 U.S.C. 355f-1.

### PAYMENTS TO STATES

SEC. 403. From the allotments available therefor under section 402, the Secretary of the Treasury shall from time to time pay to each State which has a plan approved under section 404 an amount equal to the Federal share (as determined under section 104, except that the Federal share for the fiscal year ending June 30, 1968, shall be 100 per centum) of the total sums expended by the State under such plan (including costs of administering such plan). 20 U.S.C. 355f-2. 81 Stat. 509.

### STATE PLANS FOR STATE INSTITUTIONAL LIBRARY SERVICES

SEC. 404. (a) To be approved for purposes of this part a State plan must— 20 U.S.C. 355f-3.

(1) meet the requirements of paragraphs (1), (2), (4), and (5) of section 103(a);

(2) provide policies and objectives for the establishment or improvement of State institutional library services;

(3) provide assurance that all eligible State institutions will be accorded opportunity to participate in the program pursuant to this part;

(4) provide criteria which the State agency shall use in evaluating applications for funds under this part and in assigning priority to project proposals;

(5) provide assurances satisfactory to the Commissioner that expenditures made by such State in any fiscal year for State institutional library services will not be less than such expenditures in the second preceding fiscal year; and

81 Stat. 509.

(6) establish a council which is broadly representative of State institutions eligible for assistance under this part which shall act in an advisory capacity to the State agency.

(b) The Commissioner shall approve any State plan which meets the conditions specified in subsection (a) of this section.

(c) No portion of any money paid to a State under this part shall be applied, directly or indirectly, to the purchase or erection of any building or buildings, or the purchase of any land.[2]

## PART B—LIBRARY SERVICES TO THE PHYSICALLY HANDICAPPED

### AUTHORIZATIONS OF APPROPRIATIONS

20 U.S.C. 355f-4.

SEC. 411. There are authorized to be appropriated for the fiscal year ending June 30, 1967, the sum of $3,000,000; for the fiscal year ending June 30, 1968, $4,000,000; for the fiscal year ending June 30, 1969, $5,000,000; for the fiscal year ending June 30, 1970, $6,000,000; and for the fiscal year ending June 30, 1971, $7,000,000; which shall be used for making payments to States which have submitted and had approved by the Commissioner State plans for establishing and improving library services to the physically handicapped. For the purposes of this part the term "library services to the physically handicapped" means the providing of library service, through public or other nonprofit libraries, agencies, or organizations, to physically handicapped persons (including the blind and visually handicapped) certified by competent authority as unable to read or to use conventional printed materials as a result of physical limitations.

### ALLOTMENTS

20 U.S.C. 355f-5.

SEC. 412. From the sums appropriated pursuant to section 411 for each fiscal year, the Commissoner shall allot $5,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, and $25,000 to each of the other States, and shall allot to each State such part of the remainder of such sums as the population of the State bears to the population of the United States according to the most recent decennial census.

### PAYMENTS TO STATES

20 U.S.C. 355f-6.

SEC. 413. From the allotments available therefor under section 412, the Secretary of the Treasury shall from time to time pay to each State which has a plan approved under section 414 an amount equal to the Federal share (as determined under section 104, except that the Federal share for the fiscal year ending June 30, 1968, shall be 100 per centum) of the total

81 Stat. 509.

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[2] Section 7 of Public Law 90-154 provides that the inclusion of the word "second" before the term "preceding year" in subsection (5) of section 404(a) shall be effective with respect to fiscal years beginning after June 30, 1967.

sums expended under such plan (including costs of administering such plan).

### STATE PLANS FOR SERVICES TO THE PHYSICALLY HANDICAPPED

SEC. 414. (a) To be approved for the purposes of this part a State plan must— 20 U.S.C. 355f-7.

(1) meet the requirements of paragraphs (1), (2), (4), and (5) of section 103(a);

(2) provide policies and objectives for the establishment or improvement of library services to the physically handicapped; 81 Stat. 509.

(3) provide assurance that all appropriate public or nonprofit libraries, agencies or organizations for the physically handicapped will be accorded an opportunity to participate in the program pursuant to this part;

(4) provide criteria which the State agency shall use in evaluating applications for funds under this part and in assigning priority to project proposals;

(5) provide assurances satisfactory to the Commissioner that funds available from sources other than Federal sources in any fiscal year for expenditures under State plans for library services to the physically handicapped will not be less than actual expenditures from such source in the second preceding fiscal year; and

(6) establish a council which is representative of eligible agencies which shall act in an advisory capacity to the State agency.

(b) The Commissioner shall approve, after consultation with the Librarian of Congress where appropriate, any State plan which meets the conditions specified in subsection (a) of this section.

(c) No part of any money paid to a State under this part shall be applied, directly or indirectly, to the purchase or erection of any building or buildings, or the purchase of any land.

## TITLE V—GENERAL

### WITHHOLDING

SEC. 501. If the Commissioner finds after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of a State plan approved under this Act, that the State plan has been so changed that it no longer complies with the applicable requirements of this Act or that in the administration of the plan there is a failure to comply substantially with the provisions required to be included in the plan, he shall notify such State agency that further payments will not be made to the State under this Act (or, in his discretion, that further payments will not be made with respect to portions of or projects under the State plan affected by such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to such State for carrying out such State plan (or 20 U.S.C. 356.

further payments shall be limited to parts of or projects under the plan not affected by such failure).

### ADMINISTRATION

20 U.S.C. 357.

SEC. 502. (a) The Commissioner shall administer this Act under the supervision and direction of the Secretary of Health, Education, and Welfare, and shall, with the approval of the Secretary, prescribe such regulations as may be necessary for the administration of this Act.

(b) The Commissioner is also authorized to make such studies, investigations, and reports as may be necessary or appropriate to carry out the purposes of this Act, including periodic reports for public distribution as to the values, methods, and results of various State demonstrations of public library services undertaken under this Act.

(c) There are hereby authorized to be appropriated for expenses of administration such sums as may be necessary to carry out the functions of the Secretary and the Commissioner under this Act.

(d)(1) The Commissioner shall not finally disapprove any State plan submitted under this Act, or any modification thereof, without first affording the State submitting the plan reasonable notice and opportunity for a hearing.

(2) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under title I, title II, title III, or part A or B of title IV, with respect to his final action under section 501, such State may appeal to the United States Court of Appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forth with transmitted by the clerk of the court to the Commissioner of any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceed-

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ings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

### REALLOTMENTS

Sec. 503. The amount of any State's allotment under section 102, 202, 302, 402, or 412 for any fiscal year which the Commissioner determines will not be required for the period for which such allotment is available for carrying out the State plan approved under section 103, 203, 304, 404, and 414, respectively, shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments for such year to such States under such section 102, 202, 302, 402, or 412, as the case may be, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the amount which the Commissioner estimates the State needs and will be able to use for such period of time for which the original allotments were available for carrying out the State plan approved under section 103, 203, 304, 404, or 411, as the case may be, and the total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 101, 201, 301, 401, or 411 for any fiscal year shall be deemed part of its allotment for such year under sections 102, 202, 302, 402, and 412, respectively. 20 U.S.C. 357a.

### DEFINITIONS

Sec. 504. For the purposes of this Act— 20 U.S.C. 358.

(a) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands;

(b) The term "State library administrative agency" means the official State agency charged by State law with the extension and development of public library services throughout the State;

(c) The term "public library" means a library that serves free all residents of a community, district, or region, and receives its financial support in whole or in part from public funds;

(d) The term "construction" includes construction of new buildings and acquisition expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings; including architects' fees and the cost of the acquisition of land; 81 Stat. 509.

(e) The term "Secretary" means the Secretary of Health, Education, and Welfare.

## Legislative History

### Library Services and Construction Act, as Amended Through the 89th Congress

*84th Congress*

(P.L. 597)

H.R. 2840 (Library Services Act):
H. Rept. 1587 (Committee on Education and Labor).
S. Rept. 2067 (Committee on Labor and Public Welfare).
Congressional Record, vol. 102 (1956):
May 8: Considered and passed House.
June 6: Considered and passed Senate.

(P.L. 896)

H.R. 11522:
H. Rept. 2259 (Committee on Interior and Insular Affairs).
S. Rept. 2662 (Committee on Interior and Insular Affairs).
Congressional Record, vol. 102 (1956):
June 18: Considered and passed House.
July 23: Considered and passed Senate, amended.
July 25: House concurred in Senate amendments.

*86th Congress*—P.L. 86-679

S. 2830 (H.R. 12125):
S. Rept. 1412 (Committee on Labor and Public Welfare).
H. Rept. 1622, to accompany H.R. 12125 (Committee on Education and Labor).
Congressional Record, vol. 106 (1960):
May 26: Considered and passed Senate.
Aug. 23: Considered and passed House.

*87th Congress*—P.L. 87-688

H.R. 10062:
H. Repts. 1536 (Committee on Interior and Insular Affairs) and 2264 (Committee of conference).
S. Rept. 1478 (Committee on Interior and Insular Affairs).
Congressional Record, vol. 108 (1962):
April 2: Considered and passed House.
May 17: Considered and passed Senate, amended.
Aug. 28: Senate agreed to conference report.
Aug. 30: House agreed to conference report.

*88th Congress*—P.L. 88-269

S. 2265 (H.R. 4879):
S. Rept. 592 (Committee on Labor and Public Welfare).
H. Rept. 635, accompanying H.R. 4879 (Committee on Education and Labor).
Congressional Record, vol. 109 (1963):
Nov. 22: Considered in Senate.
Nov. 26: Considered and passed Senate.
Congressional Record, vol. 110 (1964):
Jan. 21: Considered and passed House, amended, in lieu of H.R. 4879.
Jan. 30: Senate concurred in House amendments.

*89th Congress*—P.L. 89-511

H.R. 14050:
H. Rept. 1474 (Committee on Education and Labor).
S. Rept. 1291 (Committee on Labor and Public Welfare).
Congressional Record, vol. 112 (1966):
June 2: Considered and passed House.
June 22: Considered and passed Senate, amended.
June 28: House concurred in Senate amendments.

*90th Congress*—P.L. 90-154

H.R. 13048:
  H. Rept. 744 (Committee on Education and Labor).
  S. Rept. 716 (Committee on Labor and Public Welfare).
  Congressional Record, vol. 113 (1967):
    Oct. 16: Considered and passed House.
    Nov. 6: Considered and passed Senate.

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